

## LEGISLATIVE BILL 816

Approved by the Governor March 3, 2010

Introduced by Fischer, 43.

FOR AN ACT relating to motor vehicle industry regulation; to amend sections 25-2602.01, 28-1316, 44-3526, 60-1401.01, 60-1402, 60-1403, 60-1403.01, 60-1404, 60-1405, 60-1406, 60-1407, 60-1407.01, 60-1407.02, 60-1407.03, 60-1407.04, 60-1411.03, 60-1415, 60-1415.01, 60-1417.02, 60-1420, 60-1421, 60-1422, 60-1427, 60-1428, 60-1430, 60-1430.01, 60-1430.02, 60-1432, 60-1436, 60-1437, 60-1438, 60-1438.01, 60-1440, 60-2602, 60-2603, 60-2604, and 71-4603, Reissue Revised Statutes of Nebraska, sections 60-194, 60-373, 60-375, 60-380, 60-381, 60-3,116, 60-1411.01, 60-1411.02, and 60-2701, Revised Statutes Cumulative Supplement, 2008, sections 60-144, 60-164, and 60-1401.02, Revised Statutes Supplement, 2009, and section 60-1409, Reissue Revised Statutes of Nebraska, as amended by section 36, Legislative Bill 3, One Hundred First Legislature, First Special Session, 2009; to name an act; to transfer definitions; to define and redefine terms; to change provisions relating to licenses and franchises; to delete obsolete provisions; to prohibit certain acts; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 25-2602.01, Reissue Revised Statutes of Nebraska, is amended to read:

25-2602.01 (a) A written agreement to submit any existing controversy to arbitration is valid, enforceable, and irrevocable except upon such grounds as exist at law or in equity for the revocation of any contract.

(b) A provision in a written contract to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable, and irrevocable, except upon such grounds as exist at law or in equity for the revocation of any contract, if the provision is entered into voluntarily and willingly.

(c) The Uniform Arbitration Act applies to arbitration agreements between employers and employees or between their respective representatives.

(d) Contract provisions agreed to by the parties to a contract control over contrary provisions of the act other than subsections (e) and (f) of this section.

(e) Subsections (a) and (b) of this section do not apply to a claim for workers' compensation.

(f) Subsection (b) of this section does not apply to:

(1) A claim arising out of personal injury based on tort;

(2) A claim under the Nebraska Fair Employment Practice Act;

(3) Any agreement between parties covered by ~~sections 60-1401.01 to 60-1440,~~ the Motor Vehicle Industry Regulation Act; and

(4) Except as provided in section 44-811, any agreement concerning or relating to an insurance policy other than a contract between insurance companies including a reinsurance contract.

(g) When a conflict exists, the Uniform Arbitration Act shall not apply to the Uniform Act on Interstate Arbitration and Compromise of Death Taxes and sections 44-811, 44-4824, 54-404 to 54-406, 60-2701 to 60-2709, and 70-1301 to 70-1329.

Sec. 2. Section 28-1316, Reissue Revised Statutes of Nebraska, is amended to read:

28-1316 (1) A person commits the offense of unlawful use of locks and keys if he or she:

(a) Sells, offers to sell, or gives to any person other than a law enforcement agency, dealer licensed under the ~~provisions of Chapter 60, article 14,~~ Motor Vehicle Industry Regulation Act, motor vehicle manufacturer, or person regularly carrying on the profession of a locksmith any try-out key, manipulation key, wiggle key, or any other device designed to be used in place of the normal change key of any motor vehicle; or

(b) Has in his or her possession any try-out key, wiggle key, manipulation key, or any other device designed to be used in place of the normal change key of any motor vehicle unless he or she is a locksmith, locksmith manufacturer, dealer licensed under the ~~provisions of Chapter 60, article 14,~~ Motor Vehicle Industry Regulation Act, motor vehicle manufacturer, or law enforcement agency; or

(c) Duplicates a master key for anyone unless written permission has

been granted by the person who has legal control of the master key. All master keys shall be stamped with the words DO NOT DUPLICATE. All duplications of master keys shall also be stamped with the words DO NOT DUPLICATE.

(2) Nothing in subsection (1) of this section shall be construed to make it unlawful if:

(a) The owner of two or more vehicles possesses a change key that can be used on two or more vehicles that he or she owns; or

(b) Such owner changes the locks on such vehicle so that they are keyed alike; or

(c) Any person makes or duplicates the original change keys for such an owner; or

(d) Anyone stamps any other type of key with the words DO NOT DUPLICATE.

(3) Unlawful use of locks and keys is a Class III misdemeanor.

Sec. 3. Section 44-3526, Reissue Revised Statutes of Nebraska, is amended to read:

44-3526 The Motor Vehicle Service Contract Reimbursement Insurance Act shall not apply to motor vehicle service contracts (1)(a) issued by a motor vehicle manufacturer or importer for the motor vehicles manufactured or imported by that manufacturer or importer and (b) sold by a franchised motor vehicle dealer licensed pursuant to ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act~~ or (2) issued and sold directly by a motor vehicle manufacturer or importer licensed pursuant to ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act~~ for the motor vehicles manufactured or imported by that manufacturer or importer.

Sec. 4. Section 60-144, Revised Statutes Supplement, 2009, is amended to read:

60-144 (1)(a) Except as provided in subdivisions (b), (c), and (d) of this subsection, the county clerk or designated county official shall be responsible for issuing and filing certificates of title for vehicles, and each county shall issue and file such certificates of title using the vehicle titling and registration computer system prescribed by the department. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(b) The department shall issue and file certificates of title for Nebraska-based fleet vehicles. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(c) The department shall issue and file certificates of title for state-owned vehicles. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(d) The department shall issue certificates of title pursuant to section 60-142.06. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(2) If the owner of an all-terrain vehicle or a minibike resides in Nebraska, the application shall be filed with the county clerk or designated county official of the county in which the owner resides.

(3)(a) Except as otherwise provided in subdivision (b) of this subsection, if a vehicle, other than an all-terrain vehicle or a minibike, has situs in Nebraska, the application shall be filed with the county clerk or designated county official of the county in which the vehicle has situs.

(b) If a motor vehicle dealer licensed under ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act~~ applies for a certificate of title for a vehicle, the application may be filed with the county clerk or designated county official of any county.

(4) If the owner of a vehicle is a nonresident, the application shall be filed in the county in which the transaction is consummated.

(5) The application shall be filed within thirty days after the delivery of the vehicle.

(6) All applicants registering a vehicle pursuant to section 60-3,198 shall file the application for a certificate of title with the Division of Motor Carrier Services of the department. The division shall deliver the certificate to the applicant if there are no liens on the vehicle. If there are any liens on the vehicle, the division shall deliver or mail the certificate of title to the holder of the first lien on the day of issuance. All certificates of title issued by the division shall be issued in the manner prescribed for the county clerk or designated county official in section 60-152.

Sec. 5. Section 60-164, Revised Statutes Supplement, 2009, is

amended to read:

60-164 (1) The department shall implement an electronic title and lien system for vehicles no later than January 1, 2011. The director shall designate the date for the implementation of the system. Beginning on the implementation date, the holder of a security interest, trust receipt, conditional sales contract, or similar instrument regarding a vehicle may file a lien electronically as prescribed by the department. Beginning on the implementation date, upon receipt of an application for a certificate of title for a vehicle, any lien filed electronically shall become part of the electronic certificate of title record created by the county clerk, designated county official, or department maintained on the electronic title and lien system. Beginning on the implementation date, if an application for a certificate of title indicates that there is a lien or encumbrance on a vehicle or if a lien or notice of lien has been filed electronically, the department shall retain an electronic certificate of title record and shall note and cancel such liens electronically on the system. The department shall provide access to the electronic certificate of title records for motor vehicle dealers and lienholders who participate in the system by a method determined by the director.

(2) Except as provided in section 60-165, the provisions of article 9, Uniform Commercial Code, shall never be construed to apply to or to permit or require the deposit, filing, or other record whatsoever of a security agreement, conveyance intended to operate as a mortgage, trust receipt, conditional sales contract, or similar instrument or any copy of the same covering a vehicle. Any mortgage, conveyance intended to operate as a security agreement as provided by article 9, Uniform Commercial Code, trust receipt, conditional sales contract, or other similar instrument covering a vehicle, if such instrument is accompanied by delivery of such manufacturer's or importer's certificate and followed by actual and continued possession of the same by the holder of such instrument or, in the case of a certificate of title, if a notation of the same has been made electronically as prescribed in subsection (1) of this section or by the county clerk, designated county official, or department on the face of the certificate of title or on the electronic certificate of title record, shall be valid as against the creditors of the debtor, whether armed with process or not, and subsequent purchasers, secured parties, and other lienholders or claimants but otherwise shall not be valid against them, except that during any period in which a vehicle is inventory, as defined in section 9-102, Uniform Commercial Code, held for sale by a person or corporation that is required to be licensed as provided in ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act~~ and is in the business of selling such vehicles, the filing provisions of article 9, Uniform Commercial Code, as applied to inventory, shall apply to a security interest in such vehicle created by such person or corporation as debtor without the notation of lien on the certificate of title. A buyer of a vehicle at retail from a dealer required to be licensed as provided in ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act~~ shall take such vehicle free of any security interest. A purchase-money security interest, as defined in section 9-103, Uniform Commercial Code, in a vehicle is perfected against the rights of judicial lien creditors and execution creditors on and after the date the purchase-money security interest attaches.

(3) Subject to subsections (1) and (2) of this section, all liens, security agreements, and encumbrances noted upon a certificate of title or an electronic certificate of title record and all liens noted electronically as prescribed in subsection (1) of this section shall take priority according to the order of time in which the same are noted by the county clerk, designated county official, or department. Exposure for sale of any vehicle by the owner thereof with the knowledge or with the knowledge and consent of the holder of any lien, security agreement, or encumbrance on such vehicle shall not render the same void or ineffective as against the creditors of such owner or holder of subsequent liens, security agreements, or encumbrances upon such vehicle.

(4) The holder of a security agreement, trust receipt, conditional sales contract, or similar instrument, upon presentation of such instrument to the department, or to any county clerk or designated county official, together with the certificate of title and the fee prescribed for notation of lien, may have a notation of such lien made on the face of such certificate of title. The owner of a vehicle may present a valid out-of-state certificate of title issued to such owner for such vehicle with a notation of lien on such certificate of title and the prescribed fee to the county clerk, designated county official, or department and have the notation of lien made on the new certificate of title issued pursuant to section 60-144 without presenting a copy of the lien instrument. The county clerk or designated county official or the department shall enter the notation and the date thereof over the

signature of the person making the notation and the seal of the office. If noted by a county clerk or designated county official, he or she shall on that day notify the department which shall note the lien on its records. The county clerk or designated county official or the department shall also indicate by appropriate notation and on such instrument itself the fact that such lien has been noted on the certificate of title.

(5) A transaction does not create a sale or a security interest in a vehicle, other than an all-terrain vehicle or a minibike, merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the vehicle.

(6) The county clerk or designated county official or the department, upon receipt of a lien instrument duly signed by the owner in the manner prescribed by law governing such lien instruments together with the fee prescribed for notation of lien, shall notify the first lienholder to deliver to the county clerk or designated county official or the department, within fifteen days after the date of notice, the certificate of title to permit notation of such other lien and, after notation of such other lien, the county clerk or designated county official or the department shall deliver the certificate of title to the first lienholder. The holder of a certificate of title who refuses to deliver a certificate of title to the county clerk or designated county official or the department for the purpose of showing such other lien on such certificate of title within fifteen days after the date of notice shall be liable for damages to such other lienholder for the amount of damages such other lienholder suffered by reason of the holder of the certificate of title refusing to permit the showing of such lien on the certificate of title.

(7) Beginning on the implementation date of the electronic title and lien system, upon receipt of a subsequent lien instrument duly signed by the owner in the manner prescribed by law governing such lien instruments or a notice of lien filed electronically, together with an application for notation of the subsequent lien, the fee prescribed in section 60-154, and, if a printed certificate of title exists, the presentation of the certificate of title, the county clerk, designated county official, or department shall make notation of such other lien. If the certificate of title is not an electronic certificate of title record, the county clerk, designated county official, or department, upon receipt of a lien instrument duly signed by the owner in the manner prescribed by law governing such lien instruments together with the fee prescribed for notation of lien, shall notify the first lienholder to deliver to the county clerk, designated county official, or department, within fifteen days after the date of notice, the certificate of title to permit notation of such other lien. After such notation of lien, the lien shall become part of the electronic certificate of title record created by the county clerk, designated county official, or department which is maintained on the electronic title and lien system. The holder of a certificate of title who refuses to deliver a certificate of title to the county clerk, designated county official, or department for the purpose of noting such other lien on such certificate of title within fifteen days after the date when notified to do so shall be liable for damages to such other lienholder for the amount of damages such other lienholder suffered by reason of the holder of the certificate of title refusing to permit the noting of such lien on the certificate of title.

(8) When a lien is discharged, the holder shall, within fifteen days after payment is received, note a cancellation of the lien on the certificate of title over his, her, or its signature and deliver the certificate of title to the county clerk or designated county official or the department, which shall note the cancellation of the lien on the face of the certificate of title and on the records of such office. If delivered to a county clerk or designated county official, he or she shall on that day notify the department which shall note the cancellation on its records. The county clerk or designated county official or the department shall then return the certificate of title to the owner or as otherwise directed by the owner. The cancellation of lien shall be noted on the certificate of title without charge. For an electronic certificate of title record, the lienholder shall, within fifteen days after payment is received when such lien is discharged, notify the department electronically or provide written notice of such lien release, in a manner prescribed by the department, to the county clerk, designated county official, or department. The department shall note the cancellation of lien and, if no other liens exist, issue the certificate of title to the owner or as otherwise directed by the owner or lienholder. If the holder of the title cannot locate a lienholder, a lien may be discharged ten years after the date of filing by presenting proof that thirty days have passed since the

mailing of a written notice by certified mail, return receipt requested, to the last-known address of the lienholder.

Sec. 6. Section 60-194, Revised Statutes Cumulative Supplement, 2008, is amended to read:

60-194 No licensed motor vehicle dealer shall have in his or her possession as inventory for sale any used motor vehicle of an age of less than twenty-five years for which the dealer does not have in his or her possession the transferor's statement required by section 60-192 unless a certificate of title has been issued for such motor vehicle in the name of the dealer. Violation of sections 60-190 to 60-196 shall be grounds for suspension or revocation of a motor vehicle dealer's license under the ~~provisions of Chapter 60, article 14, Motor Vehicle Industry Regulation Act.~~

Sec. 7. Section 60-373, Revised Statutes Cumulative Supplement, 2008, is amended to read:

60-373 (1) Each licensed motor vehicle dealer or trailer dealer as defined in ~~section 60-1401.02~~ sections 38 and 49 of this act, respectively, doing business in this state, in lieu of registering each motor vehicle or trailer which such dealer owns of a type otherwise required to be registered, or any full-time or part-time employee or agent of such dealer may, if the motor vehicle or trailer displays dealer number plates:

(a) Operate or tow the motor vehicle or trailer upon the highways of this state solely for purposes of transporting, testing, demonstrating, or use in the ordinary course and conduct of business as a motor vehicle or trailer dealer. Such use may include personal or private use by the dealer and personal or private use by any bona fide employee licensed pursuant to ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act,~~ if the employee can be verified by payroll records maintained at the dealership as ordinarily working more than thirty hours per week or fifteen hundred hours per year at the dealership;

(b) Operate or tow the motor vehicle or trailer upon the highways of this state for transporting industrial equipment held by the licensee for purposes of demonstration, sale, rental, or delivery; or

(c) Sell the motor vehicle or trailer.

(2) Each licensed manufacturer as defined in ~~section 60-1401.02~~ 36 of this act which actually manufactures or assembles motor vehicles or trailers within this state, in lieu of registering each motor vehicle or trailer which such manufacturer owns of a type otherwise required to be registered, or any employee of such manufacturer may operate or tow the motor vehicle or trailer upon the highways of this state solely for purposes of transporting, testing, demonstrating to prospective customers, or use in the ordinary course and conduct of business as a motor vehicle or trailer manufacturer, upon the condition that any such motor vehicle or trailer display thereon, in the manner prescribed in section 60-3,100, dealer number plates as provided for in section 60-3,114.

(3) In no event shall such plates be used on motor vehicles or trailers hauling other than automotive or trailer equipment, complete motor vehicles, or trailers which are inventory of such licensed dealer or manufacturer unless there is issued by the department a special permit specifying the hauling of other products. This section shall not be construed to allow a dealer to operate a motor vehicle or trailer with dealer number plates for the delivery of parts inventory. A dealer may use such motor vehicle or trailer to pick up parts to be used for the motor vehicle or trailer inventory of the dealer.

Sec. 8. Section 60-375, Revised Statutes Cumulative Supplement, 2008, is amended to read:

60-375 (1) A finance company which is licensed to do business in this state may, in lieu of registering each motor vehicle or trailer repossessed, upon the payment of a fee of ten dollars, make an application to the department for a repossession registration certificate and one repossession license plate. Additional pairs of repossession certificates and repossession license plates may be procured for a fee of ten dollars each. Repossession license plates may be used only for operating or towing motor vehicles or trailers on the highways for the purpose of repossession, demonstration, and disposal of such motor vehicles or trailers. The repossession certificate shall be displayed on demand for any motor vehicle or trailer which has a repossession license plate. A finance company shall be entitled to a dealer license plate only in the event such company is licensed as a motor vehicle dealer or trailer dealer under ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act.~~

(2) Repossession license plates shall be prefixed with a large letter R and be serially numbered from 1 to distinguish them from each other. Such license plates shall be displayed only on the rear of a repossessed motor

vehicle or trailer.

Sec. 9. Section 60-380, Revised Statutes Cumulative Supplement, 2008, is amended to read:

60-380 Any motor vehicle or trailer owned by a dealer licensed under ~~Chapter 60, article 14,~~ the Motor Vehicle Industry Regulation Act and bearing other than dealer license plates shall be conclusively presumed not to be a part of the dealer's inventory and not for demonstration or sale and therefor not eligible for any exemption from taxes or fees applicable to motor vehicles or trailers with dealer license plates.

Sec. 10. Section 60-381, Revised Statutes Cumulative Supplement, 2008, is amended to read:

60-381 Whenever a manufacturer or dealer licensed under ~~Chapter 60, article 14,~~ the Motor Vehicle Industry Regulation Act maintains a branch or subagency, the manufacturer or dealer shall apply for a separate registration for such branch or subagency and shall pay therefor the fees provided in section 60-3,114 for the registration of motor vehicles or trailers owned by or under the control of the manufacturer or dealer, and the determination of the department upon the question whether any establishment constitutes a branch or subagency, within the intent of this section, shall be conclusive. No manufacturer, dealer, or employee of a manufacturer or dealer shall cause or permit the display or other use of any license plate or certificate of registration which has been issued to such manufacturer or dealer except upon motor vehicles or trailers owned by such manufacturer or dealer.

Sec. 11. Section 60-3,116, Revised Statutes Cumulative Supplement, 2008, is amended to read:

60-3,116 (1) Any licensed dealer or manufacturer may, upon payment of an annual fee of two hundred fifty dollars, make an application, on a form approved by the Nebraska Motor Vehicle Industry Licensing Board, to the county treasurer or designated county official of the county in which his or her place of business is located for a certificate and one personal-use dealer license plate for the type of motor vehicle or trailer the dealer has been authorized by the Nebraska Motor Vehicle Industry Licensing Board to sell and demonstrate. Additional personal-use dealer license plates may be procured upon payment of an annual fee of two hundred fifty dollars each, subject to the same limitations as provided in section 60-3,114 as to the number of additional dealer license plates. A personal-use dealer license plate may be displayed on a motor vehicle having a gross weight including any load of six thousand pounds or less belonging to the dealer, may be used in the same manner as a dealer license plate, and may be used for personal or private use of the dealer, the dealer's immediate family, or any bona fide employee of the dealer licensed pursuant to ~~Chapter 60, article 14,~~ the Motor Vehicle Industry Regulation Act.

(2) Personal-use dealer license plates shall have the same design and shall be displayed as provided in sections 60-370 and 60-3,100.

Sec. 12. Sections 60-1401.01 to 60-1440, this section, and sections 15 to 53 of this act shall be known and may be cited as the Motor Vehicle Industry Regulation Act.

Any amendments to the act shall apply to franchises subject to the act which are entered into, amended, altered, modified, renewed, or extended after the date of the amendments to the act except as otherwise specifically provided in the act.

Sec. 13. Section 60-1401.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-1401.01 (1) The Legislature finds and declares that the distribution and sales of motor vehicles, motorcycles, and trailers in the State of Nebraska vitally affects the general economy of the state, the public interest, the public welfare, and public safety and that in order to promote the public interest and the public welfare and in the exercise of its police power, it is necessary to regulate motor vehicle, motorcycle, and trailer dealers, manufacturers, distributors, and their representatives doing business in the State of Nebraska.

(2) The Legislature further finds that the sales of motor vehicles, motorcycles, and trailers are involved to a large extent in a franchise system established between manufacturers and dealers and hereby declares that the sale of motor vehicles, motorcycles, and trailers to the public in the state under the franchise system includes more than the mere transfer of title, being a continuing obligation of the manufacturer, distributor, and dealer to the buying public affecting the public interest; that the termination or failure of the established relationship between the manufacturer, distributor, and dealer without cause or good faith denies to the general buying public its right to availability of continuing post-sale mechanical and operational services and precludes the relationship, expected and implied at the time of

sale, between the buyer and the seller necessary to insure safe operating condition of the vehicle.

(3) The Legislature further finds and declares that the distribution and sale of motor vehicles in the state under the franchise system vitally affects commerce, the general economy of the state, and the welfare of the citizens of the state requiring the exercise of its police power to insure the public welfare, to regulate commerce, to establish guidelines for enforcement of a fair and equitable balance between parties to such franchises, and to provide judicial relief from unfair and inequitable practices affecting the public interest.

Sec. 14. Section 60-1401.02, Revised Statutes Supplement, 2009, is amended to read:

60-1401.02 For purposes of the Motor Vehicle Industry Regulation Act, the definitions found in sections 15 to 52 of this act apply. sections 60-1401.01 to 60-1440 and 60-2601 to 60-2607, unless the context otherwise requires:

(1) Person means every natural person, firm, partnership, limited liability company, association, or corporation;

(2) Association means any two or more persons acting with a common purpose, regardless of the relative degrees of involvement, and includes, but is not limited to, the following persons so acting:

(a) A person and one or more of his or her family members. For purposes of this subdivision, family member means an individual related to the person by blood, marriage, adoption, or legal guardianship as the person's spouse, child, parent, brother, sister, grandchild, grandparent, ward, or legal guardian or any individual so related to the person's spouse; and

(b) Two or more persons living in the same dwelling unit, whether or not related to each other;

(3) Motor vehicle dealer means any person, other than a bona fide consumer, actively and regularly engaged in the act of selling, leasing for a period of thirty or more days, or exchanging new or used motor vehicles, trailers, and manufactured homes who buys, sells, exchanges, causes the sale of, or offers or attempts to sell new or used motor vehicles. Such person is a motor vehicle dealer and subject to sections 60-1401.01 to 60-1440. Motor vehicle dealer does not include a lessor who was not involved in or associated with the selection, location, acquisition, or supply of a motor vehicle which is the subject of a lease agreement;

(4) Trailer dealer means any person, other than a bona fide consumer, actively and regularly engaged in the business of selling or exchanging new or used trailers and manufactured homes;

(5) Wrecker or salvage dealer means any person who acquires one or more motor vehicles or trailers for the purpose of dismantling them for the purpose of reselling the parts or reselling the vehicles as scrap;

(6) Motor vehicle means any vehicle for which evidence of title is required as a condition precedent to registration under the laws of this state but does not include trailers. Motor vehicle also means any engine, transmission, or rear axle, regardless of whether attached to a vehicle chassis, that is manufactured for installation in any motor-driven vehicle with a gross vehicle weight rating of more than sixteen thousand pounds for which motor-driven vehicle evidence of title is required as a condition precedent to registration under the laws of this state;

(7) Used motor vehicle means every motor vehicle which has been sold, bargained, exchanged, or given away or for which title has been transferred from the person who first acquired it from the manufacturer, importer, dealer, or agent of the manufacturer or importer. A new motor vehicle is not considered a used motor vehicle until it has been placed in use by a bona fide consumer, notwithstanding the number of transfers of the motor vehicle;

(8) New motor vehicle means all motor vehicles which are not included within the definition of a used motor vehicle in this section;

(9) Trailer means semitrailers and trailers as defined in sections 60-348 and 60-354, respectively, which are required to be licensed as commercial trailers, other vehicles without motive power constructed so as to permit their being used as conveyances upon the public streets and highways and so constructed as not to be attached to real estate and to permit the vehicle to be used for human habitation by one or more persons, and camping trailers, slide-in campers, fold-down campers, and fold-down tent trailers. Machinery and equipment to which wheels are attached and designed for being towed by a motor vehicle are excluded from the provisions of sections 60-1401.01 to 60-1440;

(10) Motorcycle dealer means any person, other than a bona fide consumer, actively and regularly engaged in the business of selling or

exchanging new or used motorcycles;

(11) Motorcycle means every motor vehicle, except a tractor, having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground and for which evidence of title is required as a condition precedent to registration under the laws of this state;

(12) Auction means a sale of motor vehicles and trailers of types required to be registered in this state, except such vehicles as are eligible for registration pursuant to section 60-3,198, sold or offered for sale at which the price offered is increased by the prospective buyers who bid against one another, the highest bidder becoming the purchaser. The holding of a farm auction or an occasional motor vehicle or trailer auction of not more than two auctions in a calendar year does not constitute an auction subject to sections 60-1401.01 to 60-1440;

(13) Auction dealer means any person engaged in the business of conducting an auction for the sale of motor vehicles and trailers;

(14) Supplemental motor vehicle, trailer, motorcycle, or motor vehicle auction dealer means any person holding either a motor vehicle, trailer, motorcycle, or motor vehicle auction dealer's license engaging in the business authorized by such license at a place of business that is more than three hundred feet from any part of the place of business designated in the dealer's original license but which is located within the city or county described in such original license;

(15) Motor vehicle, motorcycle, or trailer salesperson means any person who, for a salary, commission, or compensation of any kind, is employed directly by only one specified licensed Nebraska motor vehicle dealer, motorcycle dealer, or trailer dealer, except when the salesperson is working for two or more dealerships with common ownership, to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles, motorcycles, or trailers. A person owning any part of more than one dealership may be a salesperson for each of such dealerships. For purposes of this section, common ownership means that there is at least an eighty percent interest in each dealership by one or more persons having ownership in such dealership;

(16) Manufacturer means any person, resident or nonresident of this state, who is engaged in the business of distributing, manufacturing, or assembling new motor vehicles, trailers, or motorcycles and also has the same meaning as the term franchisor as used in sections 60-1401.01 to 60-1440;

(17) Factory representative means a representative employed by a person who manufactures or assembles motor vehicles, motorcycles, or trailers, or by a factory branch, for the purpose of promoting the sale of its motor vehicles, motorcycles, or trailers to, or for supervising or contacting, its dealers or prospective dealers in this state;

(18) Distributor means a person, resident or nonresident of this state, who in whole or in part sells or distributes new motor vehicles, trailers, or motorcycles to dealers or who maintains distributors or representatives who sell or distribute motor vehicles, trailers, or motorcycles to dealers and also has the same meaning as the term franchisor as used in sections 60-1401.01 to 60-1440;

(19) Finance company means any person engaged in the business of financing sales of motor vehicles, motorcycles, or trailers, or purchasing or acquiring promissory notes, secured instruments, or other documents by which the motor vehicles, motorcycles, or trailers are pledged as security for payment of obligations arising from such sales and who may find it necessary to engage in the activity of repossession and the sale of the motor vehicles, motorcycles, or trailers so pledged;

(20) Franchise means a contract between two or more persons when all of the following conditions are included:

(a) A commercial relationship of definite duration or continuing indefinite duration is involved;

(b) The franchisee is granted the right to offer and sell motor vehicles manufactured or distributed by the franchisor;

(c) The franchisee, as an independent business, constitutes a component of the franchisor's distribution system;

(d) The operation of the franchisee's business is substantially associated with the franchisor's trademark, service mark, trade name, advertising, or other commercial symbol designating the franchisor; and

(e) The operation of the franchisee's business is substantially reliant on the franchisor for the continued supply of motor vehicles, parts, and accessories;

(21) Franchisee means a new motor vehicle dealer who receives motor vehicles from the franchisor under a franchise and who offers and sells such

motor vehicles to the general public;

(22) Franchisor means a person who manufactures or distributes motor vehicles and who may enter into a franchise;

(23) Community means a franchisee's area of responsibility as stipulated in the franchise;

(24) Line-make means the motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the franchisor or manufacturer of the motor vehicle;

(25) Consumer care means the performance, for the public, of necessary maintenance and repairs to motor vehicles;

(26) Sale, selling, and equivalent expressions mean the attempted act or acts either as principal, agent, or salesperson or in any capacity whatsoever of selling, bartering, exchanging, or otherwise disposing of or negotiating or offering or attempting to negotiate the sale, purchase, or exchange of or interest in any motor vehicle, trailer, or motorcycle, including the leasing of any motor vehicle, trailer, or motorcycle for a period of thirty or more days with a right or option to purchase under the terms of the lease;

(27) Established place of business means a permanent location within this state, easily accessible to the public, owned or leased by the applicant or a licensee for at least the term of the license year, and conforming with applicable zoning laws, at which the licensee conducts the business for which he or she is licensed and may be contacted by the public during posted reasonable business hours which shall be not less than forty hours per week. The established place of business shall have the following facilities:

(a) Office space in a building or mobile home, which space shall be clean, dry, safe, and well lighted and in which shall be kept and maintained all books, records, and files necessary for the conduct of the licensed business, which premises, books, records, and files shall be available for inspection during regular business hours by any peace officer or investigator employed or designated by the board. Dealers shall, upon demand of the board's investigator, furnish copies of records so required when conducting any investigation of a complaint; (b) a sound and well-maintained sign which is legible from a public road and displayed with letters not less than eight inches in height and one contiguous area to display ten or more motor vehicles, motorcycles, or trailers in a presentable manner; (c) adequate repair facilities and tools to properly and actually service warranties on motor vehicles, motorcycles, or trailers sold at such place of business and to make other repairs arising out of the conduct of the licensee's business or, in lieu of such repair facilities, the licensee may enter into a contract for the provision of such service and file a copy thereof annually with the board and shall furnish to each buyer a written statement as to where such service will be provided as required by section 60-1417. The service facility shall be located in the same county as the licensee unless the board specifically authorizes the facility to be located elsewhere. Such facility shall maintain regular business hours and shall have suitable repair equipment and facilities to service and inspect the type of vehicles sold by the licensee. Investigators of the board may certify ongoing compliance with the service and inspection facilities or repair facilities; and (d) an operating telephone connected with a public telephone exchange and located on the premises of the established place of business with a telephone number listed by the public telephone exchange and available to the public during the required posted business hours. A mobile truck equipped with repair facilities to properly perform warranty functions and other repairs shall be deemed adequate repair facilities for trailers. The requirements of this subdivision shall apply to the place of business authorized under a supplemental motor vehicle, motorcycle, or trailer dealer's license;

(28) Retail, when used to describe a sale, means a sale to any person other than a licensed dealer of any kind within the definitions of this section;

(29) Factory branch means a branch office maintained in this state by a person who manufactures, assembles, or distributes motor vehicles, motorcycles, or trailers for the sale of such motor vehicles, motorcycles, or trailers to distributors or dealers or for directing or supervising, in whole or in part, its representatives in this state;

(30) Distributor representative means a representative employed by a distributor or distributor branch for the same purpose as set forth in the definition of factory representative in this section;

(31) Board means the Nebraska Motor Vehicle Industry Licensing Board;

(32) Scrap metal processor means any person engaged in the business of buying vehicles, motorcycles, or parts thereof for the purpose of remelting

or processing into scrap metal or who otherwise processes ferrous or nonferrous metallic scrap for resale. No scrap metal processor shall sell vehicles or motorcycles without obtaining a wrecker or salvage dealer license.

(33) Designated family member means the spouse, child, grandchild, parent, brother, or sister of the owner of a new motor vehicle dealership who, in the case of the owner's death, is entitled to inherit the ownership interest in the new motor vehicle dealership under the terms of the owner's will, who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of such dealership, has been appointed by a court as the legal representative of the new motor vehicle dealer's property.

(34) Bona fide consumer means an owner of a motor vehicle, motorcycle, or trailer who has acquired such vehicle for use in business or for pleasure purposes, who has been granted a certificate of title on such motor vehicle, motorcycle, or trailer, and who has registered such motor vehicle, motorcycle, or trailer, all in accordance with the laws of the residence of the owner, except that no owner who sells more than eight registered motor vehicles, motorcycles, or trailers within a twelve-month period shall qualify as a bona fide consumer.

(35) Violator means a person acting without a license or registration as required by sections 60-1401.01 to 60-1440.

(36) Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, except that manufactured home includes any structure that meets all of the requirements of this subdivision other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as such act existed on September 1, 2001, 42 U.S.C. 5401 et seq., and

(37) Dealer's agent means a person who acts as a buying agent for one or more motor vehicle dealers, motorcycle dealers, or trailer dealers.

Nothing in sections 60-1401.01 to 60-1440 shall apply to the State of Nebraska or any of its agencies or subdivisions. No insurance company, finance company, public utility company, fleet owner, or other person coming into possession of any motor vehicle, motorcycle, or trailer, as an incident to its regular business, who sells or exchanges the motor vehicle, motorcycle, or trailer shall be considered a dealer except persons whose regular business is leasing or renting motor vehicles, motorcycles, or trailers.

Sec. 15. Association means any two or more persons acting with a common purpose, regardless of the relative degrees of involvement, and includes, but is not limited to, the following persons so acting:

(1) A person and one or more of his or her family members. For purposes of this subdivision, family member means an individual related to the person by blood, marriage, adoption, or legal guardianship as the person's spouse, child, parent, brother, sister, grandchild, grandparent, ward, or legal guardian or any individual so related to the person's spouse; and

(2) Two or more persons living in the same dwelling unit, whether or not related to each other.

Sec. 16. Auction means a sale of motor vehicles and trailers of types required to be registered in this state, except such vehicles as are eligible for registration pursuant to section 60-3,198, sold or offered for sale at which the price offered is increased by the prospective buyers who bid against one another, the highest bidder becoming the purchaser. The holding of a farm auction or an occasional motor vehicle or trailer auction of not more than two auctions in a calendar year does not constitute an auction subject to the Motor Vehicle Industry Regulation Act.

Sec. 17. Auction dealer means any person engaged in the business of conducting an auction for the sale of motor vehicles and trailers.

Sec. 18. Board means the Nebraska Motor Vehicle Industry Licensing Board.

Sec. 19. Bona fide consumer means an owner of a motor vehicle, motorcycle, or trailer who has acquired such vehicle for use in business or for pleasure purposes, who has been granted a certificate of title on such motor vehicle, motorcycle, or trailer, and who has registered such motor vehicle, motorcycle, or trailer, all in accordance with the laws of the residence of the owner, except that no owner who sells more than eight registered motor vehicles, motorcycles, or trailers within a twelve-month

period shall qualify as a bona fide consumer.

Sec. 20. Coerce means to compel a dealer or manipulate a dealer to behave in an involuntary way, whether through action or inaction, by use of threats, intimidation, trickery, or some other form of pressure or force.

Sec. 21. Community means a franchisee's area of responsibility as stipulated in the franchise or, if the franchise fails to designate a community, (1) the community of the franchisee is the area surrounding the location of the franchisee in a five-mile radius from the dealership if the location is within a city of the metropolitan class and (2) the community of the franchisee is the county in which the franchisee is located if the location is not within a city of the metropolitan class.

Sec. 22. Consumer care means the performance, for the public, of necessary maintenance and repairs to motor vehicles.

Sec. 23. Dealer's agent means a person who acts as a buying agent for one or more motor vehicle dealers, motorcycle dealers, or trailer dealers.

Sec. 24. Designated family member means the spouse, child, grandchild, parent, brother, or sister of the owner of a new motor vehicle dealership who, in the case of the owner's death, is entitled to inherit the ownership interest in the new motor vehicle dealership under the terms of the owner's will, who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of such dealership, has been appointed by a court as the legal representative of the new motor vehicle dealer's property.

Sec. 25. Distributor means a person, resident or nonresident of this state, who, in whole or in part, sells or distributes new motor vehicles, trailers, or motorcycles to dealers or who maintains distributors or representatives who sell or distribute motor vehicles, trailers, or motorcycles to dealers and also has the same meaning as the term franchisor.

Sec. 26. Distributor representative means a representative employed by a distributor or distributor branch for the same purpose as set forth in the definition of factory representative.

Sec. 27. (1) Established place of business means a permanent location within this state, easily accessible to the public, owned or leased by the applicant or a licensee for at least the term of the license year, and conforming with applicable zoning laws, at which the licensee conducts the business for which he or she is licensed and may be contacted by the public during posted reasonable business hours which shall be not less than forty hours per week.

(2) The established place of business shall have the following facilities:

(a) Office space in a building or mobile home, which space shall be clean, dry, safe, and well lighted and in which shall be kept and maintained all books, records, and files necessary for the conduct of the licensed business, which premises, books, records, and files shall be available for inspection during regular business hours by any peace officer or investigator employed or designated by the board. Dealers shall, upon demand of the board's investigator, furnish copies of records so required when conducting any investigation of a complaint;

(b) A sound and well-maintained sign which is legible from a public road and displayed with letters not less than eight inches in height and one contiguous area to display ten or more motor vehicles, motorcycles, or trailers in a presentable manner;

(c) Adequate repair facilities and tools to properly and actually service warranties on motor vehicles, motorcycles, or trailers sold at such place of business and to make other repairs arising out of the conduct of the licensee's business or, in lieu of such repair facilities, the licensee may enter into a contract for the provision of such service and file a copy thereof annually with the board and shall furnish to each buyer a written statement as to where such service will be provided as required by section 60-1417. The service facility shall be located in the same county as the licensee unless the board specifically authorizes the facility to be located elsewhere. Such facility shall maintain regular business hours and shall have suitable repair equipment and facilities to service and inspect the type of vehicles sold by the licensee. Investigators of the board may certify ongoing compliance with the service and inspection facilities or repair facilities; and

(d) An operating telephone connected with a public telephone exchange and located on the premises of the established place of business with a telephone number listed by the public telephone exchange and available to the public during the required posted business hours.

(3) A mobile truck equipped with repair facilities to properly perform warranty functions and other repairs shall be deemed adequate repair

facilities for trailers.

(4) The requirements of this section shall apply to the place of business authorized under a supplemental motor vehicle, motorcycle, or trailer dealer's license.

Sec. 28. Factory branch means a branch office maintained in this state by a person who manufactures, assembles, or distributes motor vehicles, motorcycles, or trailers for the sale of such motor vehicles, motorcycles, or trailers to distributors or dealers or for directing or supervising, in whole or in part, its representatives in this state.

Sec. 29. Factory representative means a representative employed by a person who manufactures or assembles motor vehicles, motorcycles, or trailers, or by a factory branch, for the purpose of promoting the sale of its motor vehicles, motorcycles, or trailers to, or for supervising or contacting, its dealers or prospective dealers in this state.

Sec. 30. Finance company means any person engaged in the business of financing sales of motor vehicles, motorcycles, or trailers, or purchasing or acquiring promissory notes, secured instruments, or other documents by which the motor vehicles, motorcycles, or trailers are pledged as security for payment of obligations arising from such sales and who may find it necessary to engage in the activity of repossession and the sale of the motor vehicles, motorcycles, or trailers so pledged.

Sec. 31. Franchise means a contract between two or more persons when all of the following conditions are included:

(1) A commercial relationship of definite duration or continuing indefinite duration is involved;

(2) The franchisee is granted the right to offer and sell motor vehicles manufactured or distributed by the franchisor;

(3) The franchisee, as an independent business, constitutes a component of the franchisor's distribution system;

(4) The operation of the franchisee's business is substantially associated with the franchisor's trademark, service mark, trade name, advertising, or other commercial symbol designating the franchisor; and

(5) The operation of the franchisee's business is substantially reliant on the franchisor for the continued supply of motor vehicles, parts, and accessories.

Sec. 32. Franchisee means a new motor vehicle dealer who receives motor vehicles from the franchisor under a franchise and who offers and sells such motor vehicles to the general public.

Sec. 33. Franchisor means a person who manufactures or distributes motor vehicles and who may enter into a franchise.

Sec. 34. Line-make means a collection of models, series, or groups of motor vehicles manufactured by or for a particular manufacturer, distributor, or importer that are offered for sale, lease, or distribution pursuant to a common brand name or mark, except that:

(1) Multiple brand names or marks may constitute a single line-make, but only when included in a common dealer agreement and the manufacturer, distributor, or importer offers such vehicles bearing the multiple names or marks together only, and not separately, to its authorized dealers; and

(2) Motor vehicles bearing a common brand name or mark may constitute separate line-makes when pertaining to motor vehicles subject to separate dealer agreements or when such vehicles are intended for different types of use.

Sec. 35. Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, except that manufactured home includes any structure that meets all of the requirements of this section other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as such act existed on January 1, 2010.

Sec. 36. Manufacturer means any person, resident or nonresident of this state, who is engaged in the business of distributing, manufacturing, or assembling a line-make of new motor vehicles, trailers, or motorcycles and distributes them directly or indirectly through one or more distributors to one or more new motor vehicle, trailer, or motorcycle dealers in this state and also has the same meaning as the term franchisor.

Manufacturer also includes a central or principal sales corporation or other entity through which, by contractual agreement or otherwise, a manufacturer distributes its products.

Sec. 37. Motor vehicle means any vehicle for which evidence of title is required as a condition precedent to registration under the laws of this state but does not include trailers.

Motor vehicle also means any engine, transmission, or rear axle, regardless of whether attached to a vehicle chassis, that is manufactured for installation in any motor-driven vehicle with a gross vehicle weight rating of more than sixteen thousand pounds for which motor-driven vehicle evidence of title is required as a condition precedent to registration under the laws of this state.

Sec. 38. Motor vehicle dealer means any person, other than a bona fide consumer, actively and regularly engaged in the act of selling, leasing for a period of thirty or more days, or exchanging new or used motor vehicles, trailers, and manufactured homes who buys, sells, exchanges, causes the sale of, or offers or attempts to sell new or used motor vehicles. Such person is a motor vehicle dealer and subject to the Motor Vehicle Industry Regulation Act.

Motor vehicle dealer does not include a lessor who was not involved in or associated with the selection, location, acquisition, or supply of a motor vehicle which is the subject of a lease agreement.

Sec. 39. Motor vehicle, motorcycle, or trailer salesperson means any person who, for a salary, commission, or compensation of any kind, is employed directly by only one specified licensed Nebraska motor vehicle dealer, motorcycle dealer, or trailer dealer, except when the salesperson is working for two or more dealerships with common ownership, to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles, motorcycles, or trailers. A person owning any part of more than one dealership may be a salesperson for each of such dealerships. For purposes of this section, common ownership means that there is at least an eighty percent interest in each dealership by one or more persons having ownership in such dealership.

Sec. 40. Motorcycle means every motor vehicle, except a tractor, having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground and for which evidence of title is required as a condition precedent to registration under the laws of this state.

Sec. 41. Motorcycle dealer means any person, other than a bona fide consumer, actively and regularly engaged in the business of selling or exchanging new or used motorcycles.

Sec. 42. New motor vehicle means all motor vehicles which are not included within the definition of a used motor vehicle.

Sec. 43. Person means every natural person, firm, partnership, limited liability company, association, or corporation.

Sec. 44. Retail, when used to describe a sale, means a sale to any person other than a licensed dealer of any kind licensed under the Motor Vehicle Industry Regulation Act.

Sec. 45. Sale, selling, and equivalent expressions mean the attempted act or acts either as principal, agent, or salesperson or in any capacity whatsoever of selling, bartering, exchanging, or otherwise disposing of or negotiating or offering or attempting to negotiate the sale, purchase, or exchange of or interest in any motor vehicle, trailer, or motorcycle, including the leasing of any motor vehicle, trailer, or motorcycle for a period of thirty or more days with a right or option to purchase under the terms of the lease.

Sec. 46. Scrap metal processor means any person engaged in the business of buying vehicles, motorcycles, or parts thereof for the purpose of remelting or processing into scrap metal or who otherwise processes ferrous or nonferrous metallic scrap for resale.

No scrap metal processor shall sell vehicles or motorcycles without obtaining a wrecker or salvage dealer license.

Sec. 47. Supplemental motor vehicle, trailer, motorcycle, or motor vehicle auction dealer means any person holding either a motor vehicle, trailer, motorcycle, or motor vehicle auction dealer's license engaging in the business authorized by such license at a place of business that is more than three hundred feet from any part of the place of business designated in the dealer's original license but which is located within the city or county described in such original license.

Sec. 48. Trailer means semitrailers and trailers as defined in sections 60-348 and 60-354, respectively, which are required to be licensed as commercial trailers, other vehicles without motive power constructed so as to permit their being used as conveyances upon the public streets and highways

and so constructed as not to be attached to real estate and to permit the vehicle to be used for human habitation by one or more persons, and camping trailers, slide-in campers, fold-down campers, and fold-down tent trailers.

Machinery and equipment to which wheels are attached and designed for being towed by a motor vehicle are excluded from the Motor Vehicle Industry Regulation Act.

Sec. 49. Trailer dealer means any person, other than a bona fide consumer, actively and regularly engaged in the business of selling or exchanging new or used trailers and manufactured homes.

Sec. 50. Used motor vehicle means every motor vehicle which has been sold, bargained, exchanged, or given away or for which title has been transferred from the person who first acquired it from the manufacturer, importer, dealer, or agent of the manufacturer or importer.

A new motor vehicle is not considered a used motor vehicle until it has been placed in use by a bona fide consumer, notwithstanding the number of transfers of the motor vehicle.

Sec. 51. Violator means a person acting without a license or registration as required by the Motor Vehicle Industry Regulation Act.

Sec. 52. Wrecker or salvage dealer means any person who acquires one or more motor vehicles or trailers for the purpose of dismantling them for the purpose of reselling the parts or reselling the vehicles as scrap.

Sec. 53. (1) Nothing in the Motor Vehicle Industry Regulation Act shall apply to the State of Nebraska or any of its agencies or subdivisions.

(2) No insurance company, finance company, public utility company, fleet owner, or other person coming into possession of any motor vehicle, motorcycle, or trailer, as an incident to its regular business, who sells or exchanges the motor vehicle, motorcycle, or trailer shall be considered a dealer except persons whose regular business is leasing or renting motor vehicles, motorcycles, or trailers.

Sec. 54. Section 60-1402, Reissue Revised Statutes of Nebraska, is amended to read:

60-1402 (1) There is hereby established the Nebraska Motor Vehicle Industry Licensing Board which shall consist of the Director of Motor Vehicles, who shall be ~~chairman~~ the chairperson of the board, and nine members appointed by the Governor as follows: One factory representative, one member of the general public, and one motorcycle dealer, all of whom shall be appointed from the state at large, one new motor vehicle dealer from each of the three congressional districts of the state as the districts are constituted on October 19, 1963, and two used motor vehicle dealers and one trailer dealer or combination motor vehicle or trailer dealer, not more than one used motor vehicle dealer being appointed from the same congressional district as they are constituted on October 19, 1963, and the trailer dealer or combination motor vehicle or trailer dealer being appointed from the state at large. ~~No + PROVIDED, that no~~ member of the board shall participate in any manner in a proceeding before the board involving his or her licensed business.

(2) On October 19, 1963, the Governor shall appoint a new motor vehicle dealer and a trailer dealer or combination motor vehicle or trailer dealer to the board. In making the appointments, the Governor shall appoint one of the new members for one year and one for two years as designated by ~~him~~ the Governor in making the appointments. On January 1, 1972, the Governor shall appoint one factory representative and one member of the general public to the board, designating one to serve for a term of one year and one for a term of two years. On January 1, 1974, the Governor shall appoint one motorcycle dealer to serve for a term of three years. At the expiration of the term of any appointed member of the board, the Governor shall appoint a successor for a term of three years. In the event of a vacancy on the board, the Governor shall fill such vacancy by appointing a member to serve during the unexpired term of the member whose office has become vacant. No member appointed shall serve more than two consecutive terms. The action of the majority of the members of the board shall be deemed the action of the board. All appointments made to the board, except the Director of Motor Vehicles, shall be confirmed by the Legislature if in session. In the event the Legislature is not in session all appointments including appointments to fill a vacancy shall be temporary appointments until the next meeting of the Legislature when the Governor shall nominate some person to fill the office. Any person so nominated who is confirmed by the Legislature shall hold ~~his~~ office during the remainder of the term. No appointed person may act as a member of the board while holding any other elective or appointive state or federal office except the Director of Motor Vehicles. All appointed members of the board shall be paid fifty dollars for each day actually engaged in the performance of their duties and be entitled to their reasonable traveling

expenses in the performance of their duties.

Sec. 55. Section 60-1403, Reissue Revised Statutes of Nebraska, is amended to read:

60-1403 (1) The board may:

(a) Regulate the issuance and revocation of licenses in accordance with and subject to ~~sections 60-1401.01 to 60-1440,~~ the Motor Vehicle Industry Regulation Act;

(b) Perform all acts and duties provided for in ~~such sections~~ the act necessary to the administration and enforcement of ~~such sections,~~ the act; and

(c) Make and enforce rules and regulations relating to the administration of but not inconsistent with ~~such sections,~~ the act.

(2) The board shall adopt a seal, which may be either an engraved or ink stamp seal, with the words Nebraska Motor Vehicle Industry Licensing Board and such other devices as the board may desire included on the seal by which it shall authenticate the acts of its office. Copies of all records and papers in the office of the board under the hand and seal of its office shall be received in evidence in all cases equally and with like effect as the original.

(3) Investigators employed by the board may enter upon and inspect the facilities, the required records, and any vehicles, trailers, or motorcycles found in any licensed motor vehicle, motorcycle, or trailer dealer's established place or places of business.

Sec. 56. Section 60-1403.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-1403.01 (1) No person shall engage in the business as, serve in the capacity of, or act as a motor vehicle, trailer, or motorcycle dealer, wrecker or salvage dealer, salesperson, auction dealer, dealer's agent, manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative in this state without being licensed by the board under the ~~provisions of sections 60-1401.01 to 60-1440.~~ Motor Vehicle Industry Regulation Act. No salesperson's license shall be issued to any person under the age of sixteen, and no dealer's license shall be issued to any minor. No wrecker or salvage dealer's license shall be issued or renewed unless the applicant has a permanent place of business at which the activity requiring licensing is performed and which conforms to all local laws.

(2) A license issued under ~~sections 60-1401.01 to 60-1440~~ the act shall authorize the holder thereof to engage in the business or activities permitted by the license subject to ~~sections 60-1401.01 to 60-1440~~ the act and the rules and regulations adopted and promulgated by the board under ~~such sections,~~ the act.

(3) This section shall not apply to a licensed real estate salesperson or broker who negotiates for sale or sells a trailer for any individual who is the owner of not more than two trailers.

Sec. 57. Section 60-1404, Reissue Revised Statutes of Nebraska, is amended to read:

60-1404 The board shall have the authority to employ an executive director who shall direct and administer the affairs of the board and who shall keep a record of all proceedings, transactions, communications, and official acts of the board. He or she shall be custodian of all records of the board and perform such other duties as the board may require. The executive director shall call a meeting of the board at the direction of the chairperson thereof or upon a written request of two or more members thereof. The executive director, with the approval of the board, is authorized to employ an attorney at a minimum salary of six hundred dollars per month together with such other employees, including staff for its attorney, as may be necessary to properly carry out ~~Chapter 60, article 14,~~ the Motor Vehicle Industry Regulation Act, to fix the salaries of such employees, and to make such other expenditures as are necessary to properly carry out ~~Chapter 60, article 14.~~ the act. The office of the board shall be maintained in the State Capitol at Lincoln and all files, records, and property of the board shall at all times be and remain therein. The executive director shall be the board's representative in the administration of ~~Chapter 60, article 14,~~ the act, and he or she shall insure that the policies and directives of the board are carried out.

Sec. 58. Section 60-1405, Reissue Revised Statutes of Nebraska, is amended to read:

60-1405 The Attorney General shall render to the Nebraska Motor Vehicle Industry Licensing Board opinions on all questions of law, relating to the interpretation of the ~~provisions of Chapter 60, article 14,~~ Motor Vehicle Industry Regulation Act or arising in the administration thereof.

~~He~~ The Attorney General shall act as attorney for the board in all actions and proceedings brought by or against it under or pursuant to any of the provisions of ~~Chapter 60, article 14, PROVIDED, all the act.~~ All fees and expenses of the Attorney General for such duties shall be paid out of the Nebraska Motor Vehicle Industry Licensing Fund.

Sec. 59. Section 60-1406, Reissue Revised Statutes of Nebraska, is amended to read:

60-1406 Licenses issued by the board under ~~Chapter 60, article 14,~~ the Motor Vehicle Industry Regulation Act shall be of the classes set out in this section and shall permit the business activities described in this section:

(1) Motor vehicle dealer's license. This license permits the licensee to engage in the business of selling or exchanging new, used, or new and used motor vehicles, trailers, and manufactured homes at the established place of business designated in the license and another place or places of business located within three hundred feet of the designated place of business and within the city or county described in the original license. This license permits the sale of a trade-in or consignment mobile home greater than forty feet in length and eight feet in width and located at a place other than the dealer's established place of business. This license permits one person, either the licensee, if he or she is the individual owner of the licensed business, or a stockholder, officer, partner, or member of the licensee, to act as a motor vehicle, trailer, and manufactured home salesperson and the name of the authorized person shall appear on the license;

(2) Motor vehicle, motorcycle, or trailer salesperson license. This license permits the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer salesperson. This license permits the one person named on the license to act as a salesperson;

(3) Manufacturer license. This license permits the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer manufacturer or manufacturer's factory branch;

(4) Distributor license. This license permits the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer distributor;

(5) Factory representative license. This license permits the licensee to engage in the activities of a factory branch representative;

(6) Factory branch license. This license permits the licensee to maintain a branch office in this state;

(7) Distributor representative license. This license permits the licensee to engage in the activities of a distributor representative;

(8) Finance company license. This license permits the licensee to engage in the activities of repossession of motor vehicles or trailers and the sale of such motor vehicles or trailers so repossessed;

(9) Wrecker or salvage dealer license. This license permits the licensee to engage in the business of acquiring motor vehicles or trailers for the purpose of dismantling the motor vehicles or trailers and selling or otherwise disposing of the parts and accessories of motor vehicles or trailers;

(10) Supplemental motor vehicle, motorcycle, or trailer dealer's license. This license permits the licensee to engage in the business of selling or exchanging motor vehicles, motorcycles, or trailers of the type designated in his or her dealer's license at a specified place of business which is located more than three hundred feet from any part of the place of business designated in the original motor vehicle, motorcycle, or trailer dealer's license but which is located within the city or county described in such original license;

(11) Motorcycle dealer's license. This license permits the licensee to engage in the business of selling or exchanging new, used, or new and used motorcycles at the established place of business designated in the license and another place or places of business located within three hundred feet of the designated place of business and within the city or county described in the original license. This form of license permits one person named on the license, either the licensee, if he or she is the individual owner of the licensed business, or a stockholder, officer, partner, or member of the licensee, to act as a motorcycle salesperson and the name of the authorized person shall appear on the license;

(12) Motor vehicle auction dealer's license. This license permits the licensee to engage in the business of selling motor vehicles and trailers. This form of license permits one person named on the license, either the licensee, if he or she is the individual owner of the licensed business, or a stockholder, officer, partner, or member of the licensee, to act as a motor vehicle auction dealer's salesperson and the name of the authorized person shall appear on the license;

(13) Trailer dealer's license. This license permits the licensee to engage in the business of selling or exchanging new, used, or new and used trailers and manufactured homes at the established place of business designated in the license and another place or places of business located within three hundred feet of the designated place of business and within the city or county described in the original license. This form of license permits one person named on the license, either the licensee, if he or she is the individual owner of the licensed business, or a stockholder, officer, partner, or member of the licensee, to act as a trailer and manufactured home salesperson and the name of the authorized person shall appear on the license; and

(14) Dealer's agent license. This license permits the licensee to act as the buying agent for one or more licensed motor vehicle dealers, motorcycle dealers, or trailer dealers. The agent shall act in accordance with a written contract and file a copy of the contract with the board. The dealer shall be bound by and liable for the actions of the agent. The dealer's agent shall disclose in writing to each dealer with which the agent contracts as an agent the names of all other dealers contracting with the agent. The agent shall make each purchase on behalf of and in the name of only one dealer and may purchase for dealers only at auctions and only from licensed dealers. The agent shall not act as a licensed dealer and is not authorized to sell any vehicle pursuant to this license.

Sec. 60. Section 60-1407, Reissue Revised Statutes of Nebraska, is amended to read:

60-1407 Any person desiring to apply for one or more of the types of licenses described in ~~Chapter 60, article 14,~~ the Motor Vehicle Industry Regulation Act shall submit to the board, in writing, the following required information:

(1) The name and address of the applicant, if the applicant is an individual, his or her social security number, and the name under which he or she intends to conduct business. If the applicant is a partnership or limited liability company, it shall set forth the name and address of each partner or member thereof and the name under which the business is to be conducted. If the applicant is a corporation, it shall set forth the name of the corporation and the name and address of each of its principal officers;

(2) The place or places, including the city or village and the street and street number, if any, where the business is to be conducted or the salesperson employed;

(3) If the application is for a motor vehicle dealer's license, trailer dealer's license, or motorcycle dealer's license (a) the name or names of the new motor vehicle or vehicles, new trailer or trailers, or new motorcycle or motorcycles which the applicant has been enfranchised to sell or exchange, (b) the name or names and address or addresses of the manufacturer or distributor who has enfranchised the applicant, (c) a current copy of each existing franchise, and (d) a description of the community; ~~as defined in section 60-1401.02 designated in the franchise agreement or, if the franchise agreement fails to designate a community, (i) the community of the franchisee is the area surrounding the location of the franchisee in a five-mile radius from the dealership if the location is within a city of the metropolitan class and (ii) the community of the franchisee is the county in which the franchisee is located if the location is not within a city of the metropolitan class;~~

(4) If the application is for any of the above-named classes of dealer's licenses, the name and address of the person who is to act as a motor vehicle, trailer, or motorcycle salesperson under such license if issued;

(5) If the application is for a dealer's agent, the dealers for which the agent will be buying; and

(6) A description of the proposed place or places of business proposed to be operated in the event a license is granted together with (a) a statement whether the applicant owns or leases the proposed established place of business as defined in section 60-1401.02 and, if the proposed established place of business is leased, the applicant shall file a true and correct copy of the lease agreement, and (b) a description of the facilities for the display of motor vehicles, trailers, and motorcycles; ~~and~~

(7) If the application is for a manufacturer's license, a statement regarding the manufacturer's compliance with the Motor Vehicle Industry Regulation Act; and

(8) A statement that the licensee will comply with and be subject to the act, the rules and regulations adopted and promulgated by the board, and any amendments to the act and the rules and regulations existing on the date of application.

Subdivision (3)(d) of this section shall not be construed to require any licensee who has a franchise on August 31, 2003, to show good cause to be

in the same community as any other licensee who has a franchise of the same line-make in the same community on August 31, 2003.

Sec. 61. Section 60-1407.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-1407.01 (1) Upon the filing of any application, a staff member of the board shall endorse on it the date of filing. If no patent disqualification of the applicant is disclosed or if no valid objection to the granting of the application is apparent and if all requirements relative to the filing of the application appear to have been complied with, the chairperson of the board or executive director shall refer the application to a staff member for investigation and report. The report shall include:

(a) A statement as to whether or not the applicant or any person holding any financial interest in the applicant is for any reason disqualified by ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act~~ from obtaining or exercising a license and whether or not the applicant has complied with all the requirements of ~~Chapter 60, article 14, the act~~ relative to the making and filing of his or her application;

(b) Information relating to any and all other matters and things which in the judgment of the staff member pertain to or affect the matter of the application or the issuance or exercise of the license applied for; and

(c) In the case of an application for a dealer's license:

(i) A description of the premises intended to become the licensed premises and of the equipment and surrounding conditions;

(ii) If the applicant has held a prior dealer's license for the same or any other premises within two years past, a statement as to the manner in which the premises have been operated and the business conducted under the previous license; and

(iii) If the applicant proposes to engage in the business of selling new motor vehicles, motorcycles, or trailers, a written statement from the applicable manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or such other evidence as prescribed by the board, that the applicant is authorized to sell or distribute such new motor vehicles, motorcycles, or trailers.

(2) After the filing of the report, the board may interview the applicant. Notice of such interview shall be given at least ten days prior to the interview.

(3) The executive director shall not issue or renew a license if the applicant or licensee does not (a) maintain an established place of business, (b) meet the requirement for a bond pursuant to section 60-1419, (c) present a certificate or policy of insurance written by an insurance carrier duly authorized to do business in this state which gives the effective dates of coverage indicating that it is in force, which covers the fleet of motor vehicles owned by the applicant or licensee in the ordinary course of business, and which provides liability coverage as described in sections 60-534 and 60-538, ~~and~~ (d) present evidence of compliance with the insurance requirements of the Nebraska Workers' Compensation Act, and (e) meet requirements for licensure and comply with the Motor Vehicle Industry Regulation Act, the rules and regulations adopted and promulgated by the board, and any amendments to the act and the rules and regulations. The executive director shall refuse to renew a motor vehicle dealer's license if the dealer cannot prove that he or she sold at least five motor vehicles during the previous licensing period. The requirement under subdivision (c) of this subsection for a certificate or policy of insurance shall not apply to trailer dealers.

(4) The board shall revoke the license of any licensee if, after December 31, 1991, it comes to the attention of the board that the policy of motor vehicle liability coverage required under subdivision (3)(c) of this section is no longer in force.

(5) Nothing in this section shall be construed to change any existing liability or to create any new liability.

Sec. 62. Section 60-1407.02, Reissue Revised Statutes of Nebraska, is amended to read:

60-1407.02 It shall be unlawful for any person holding a Nebraska sales tax permit, except a dealer licensed pursuant to ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act,~~ to sell or offer for sale any motor vehicle, motorcycle, or trailer, not owned by such person, on the premises covered by such sales tax permit. Any person violating the ~~provisions of~~ this section shall be guilty of a Class IV misdemeanor.

Sec. 63. Section 60-1407.03, Reissue Revised Statutes of Nebraska, is amended to read:

60-1407.03 Notwithstanding the other provisions of ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act~~ restricting sales to

an established place of business, any motor vehicle, motorcycle, or trailer dealer licensed in accordance with ~~Chapter 60, article 14, the act~~ may be granted a special permit to display and sell passenger cars, motor vehicles, motorcycles, trailers, or self-propelled motor homes at fairs, sports shows, vacation shows, and similar events, subject to the conditions established by sections 60-1407.02 to 60-1407.04.

Sec. 64. Section 60-1407.04, Reissue Revised Statutes of Nebraska, is amended to read:

60-1407.04 The event for which ~~such~~ a permit is sought under section 60-1407.03 must be approved by the board. In determining approval, the board shall consider the size, location, duration, sponsors, and purpose of the event. Approval shall not be given to any event sponsored solely by a dealer or dealers, or for which the sole or primary purpose is the sale of motor vehicles, motorcycles, trailers, or self-propelled mobile homes.

Sec. 65. Section 60-1409, Reissue Revised Statutes of Nebraska, as amended by section 36, Legislative Bill 3, One Hundred First Legislature, First Special Session, 2009, is amended to read:

60-1409 The Nebraska Motor Vehicle Industry Licensing Fund is created. All fees collected under ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act~~ shall be remitted by the board, as collected, to the State Treasurer for credit to the fund. Such fund shall be appropriated by the Legislature for the operations of the Nebraska Motor Vehicle Industry Licensing Board and shall be paid out from time to time by warrants of the Director of Administrative Services on the State Treasurer for authorized expenditures upon duly itemized vouchers executed as provided by law and approved by the chairperson of the board or the executive secretary, except that transfers from the fund to the General Fund may be made at the direction of the Legislature through June 30, 2011. The expenses of conducting the office must always be kept within the income collected and reported to the State Treasurer by such board. Such office and expense thereof shall not be supported or paid from the General Fund, and all money deposited in the Nebraska Motor Vehicle Industry Licensing Fund shall be expended only for such office and expense thereof and, unless determined by the board, it shall not be required to expend any funds to any person or any other governmental agency.

Any money in the Nebraska Motor Vehicle Industry Licensing Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The fund shall be audited annually by the Auditor of Public Accounts.

~~The State Treasurer shall transfer five hundred thousand dollars from the Nebraska Motor Vehicle Industry Licensing Fund to the General Fund within fifteen days after July 1, 2002.~~

Sec. 66. Section 60-1411.01, Revised Statutes Cumulative Supplement, 2008, is amended to read:

60-1411.01 ~~(1) Until January 1, 2008, to pay the expenses of the administration, operation, maintenance, and enforcement of sections 60-1401.01 to 60-1440, the board shall collect with each application for each class of license fees not exceeding the following amounts:~~

- ~~(a) Motor vehicle dealer's license, two hundred dollars;~~
- ~~(b) Supplemental motor vehicle dealer's license, ten dollars;~~
- ~~(c) Motor vehicle or motorcycle salesperson's license, ten dollars;~~
- ~~(d) Dealer's agent license, fifty dollars;~~
- ~~(e) Motor vehicle, motorcycle, or trailer manufacturer's license, three hundred dollars;~~
- ~~(f) Distributor's license, three hundred dollars;~~
- ~~(g) Factory representative's license, ten dollars;~~
- ~~(h) Distributor representative's license, ten dollars;~~
- ~~(i) Finance company's license, two hundred dollars;~~
- ~~(j) Wrecker or salvage dealer's license, one hundred dollars;~~
- ~~(k) Factory branch license, one hundred dollars;~~
- ~~(l) Motorcycle dealer's license, two hundred dollars;~~
- ~~(m) Motor vehicle auction dealer's license, two hundred dollars; and~~
- ~~(n) Trailer dealer's license, two hundred dollars.~~

~~(2) On and after January 1, 2008, to (1) To pay the expenses of the administration, operation, maintenance, and enforcement of sections 60-1401.01 to 60-1440, the Motor Vehicle Industry Regulation Act, the board shall collect with each application for each class of license fees not exceeding the following amounts:~~

- (a) Motor vehicle dealer's license, four hundred dollars;
- (b) Supplemental motor vehicle dealer's license, twenty dollars;
- (c) Motor vehicle or motorcycle salesperson's license, twenty

dollars;

(d) Dealer's agent license, one hundred dollars;

(e) Motor vehicle, motorcycle, or trailer manufacturer's license, six hundred dollars;

(f) Distributor's license, six hundred dollars;

(g) Factory representative's license, twenty dollars;

(h) Distributor representative's license, twenty dollars;

(i) Finance company's license, four hundred dollars;

(j) Wrecker or salvage dealer's license, two hundred dollars;

(k) Factory branch license, two hundred dollars;

(l) Motorcycle dealer's license, four hundred dollars;

(m) Motor vehicle auction dealer's license, four hundred dollars;

and

(n) Trailer dealer's license, four hundred dollars.

~~(3)~~ (2) The fees shall be fixed by the board and shall not exceed the amount actually necessary to sustain the administration, operation, maintenance, and enforcement of ~~sections 60-1401.01 to 60-1440.~~ the act.

~~(4)~~ (3) Such licenses, if issued, shall expire on December 31 next following the date of the issuance thereof. Any motor vehicle, motorcycle, or trailer dealer changing its location shall not be required to obtain a new license if the new location is within the same city limits or county, all requirements of law are complied with, and a fee of twenty-five dollars is paid, but any change of ownership of any licensee shall require a new application for a license and a new license. Change of name of licensee without change of ownership shall require the licensee to obtain a new license and pay a fee of five dollars. Applications shall be made each year for a new or renewal license. If the applicant is an individual, the application shall include the applicant's social security number.

Sec. 67. Section 60-1411.02, Revised Statutes Cumulative Supplement, 2008, is amended to read:

60-1411.02 The board may, upon its own motion, and shall, upon a sworn complaint in writing of any person, investigate the actions of any person acting, registered, or licensed under ~~Chapter 60, article 14,~~ the Motor Vehicle Industry Regulation Act as a motor vehicle dealer, trailer dealer, motor vehicle or trailer salesperson, dealer's agent, manufacturer, factory branch, distributor, factory representative, distributor representative, supplemental motor vehicle dealer, wrecker or salvage dealer, finance company, motorcycle dealer, or motor vehicle auction dealer or operating without a registration or license when such registration or license is required. The board may deny any application for a license, may revoke or suspend a license, may place the licensee or registrant on probation, may assess an administrative fine in an amount not to exceed five thousand dollars per violation, or may take any combination of such actions if the violator, applicant, registrant, or licensee including any officer, stockholder, partner, or limited liability company member or any person having any financial interest in the violator, applicant, registrant, or licensee:

(1) Has had any license issued under ~~Chapter 60, article 14,~~ the act revoked or suspended and, if the license has been suspended, has not complied with the terms of suspension;

(2) Has knowingly purchased, sold, or done business in stolen motor vehicles, motorcycles, or trailers or parts therefor;

(3) Has failed to provide and maintain an established place of business;

(4) Has been found guilty of any felony which has not been pardoned, has been found guilty of any misdemeanor concerning fraud or conversion, or has suffered any judgment in any civil action involving fraud, misrepresentation, or conversion. In the event felony charges are pending against an applicant, the board may refuse to issue a license to the applicant until there has been a final determination of the charges;

(5) Has made a false material statement in his or her application or any data attached to the application or to any investigator or employee of the board;

(6) Has willfully failed to perform any written agreement with any consumer or retail buyer;

(7) Has made a fraudulent sale, transaction, or repossession, or created a fraudulent security interest as defined in the Uniform Commercial Code, in a motor vehicle, trailer, or motorcycle;

(8) Has failed to notify the board of a change in the location of his or her established place or places of business and in the case of a salesperson has failed to notify the board of any change in his or her employment;

(9) Has willfully failed to deliver to a purchaser a proper

certificate of ownership for a motor vehicle, trailer, or motorcycle sold by the licensee or to refund the full purchase price if the purchaser cannot legally obtain proper certification of ownership within thirty days;

(10) Has forged the signature of the registered or legal owner on a certificate of title;

(11) Has failed to comply with ~~Chapter 60, article 14, the act~~ and any orders, rules, or regulations of the board adopted and promulgated under ~~Chapter 60, article 14, the act~~;

(12) Has failed to comply with the advertising and selling standards established in section 60-1411.03;

(13) Has failed to comply with any provisions of the Motor Vehicle Certificate of Title Act, the Motor Vehicle Industry Regulation Act, the Motor Vehicle Registration Act, ~~Chapter 60, article 14~~, or the rules or regulations adopted and promulgated by the board pursuant to ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act~~;

(14) Has failed to comply with any provision of Chapter 71, article 46, or with any code, standard, rule, or regulation adopted or made under the authority of or pursuant to Chapter 71, article 46;

(15) Has willfully defrauded any retail buyer or other person in the conduct of the licensee's business;

(16) Has employed any unlicensed salesperson or salespersons;

(17) Has failed to comply with sections 60-190 to 60-196;

(18) Has engaged in any unfair methods of competition or unfair or deceptive acts or practices prohibited under the Uniform Deceptive Trade Practices Act; or

(19) Has conspired, as defined in section 28-202, with other persons to process certificates of title in violation of the Motor Vehicle Certificate of Title Act.

If the violator, applicant, registrant, or licensee is a publicly held corporation, the board's authority shall extend only to the corporation and its managing officers and directors.

Sec. 68. Section 60-1411.03, Reissue Revised Statutes of Nebraska, is amended to read:

60-1411.03 It shall be unlawful for any licensee or motor vehicle dealer to engage, directly or indirectly, in the following acts:

(1) To advertise and offer any year, make, engine size, model, type, equipment, price, trade-in allowance, or terms or make other claims or conditions pertaining to the sale, leasing, or rental of motor vehicles, motorcycles, and trailers which are not truthful and clearly set forth;

(2) To advertise for sale, lease, or rental a specific motor vehicle, motorcycle, or trailer which is not in the possession of the dealer, owner, or advertiser and willingly shown and sold, as advertised, illustrated, or described, at the advertised price and terms, at the advertised address. Unless otherwise specified, a motor vehicle, motorcycle, or trailer advertised for sale shall be in operable condition and, on request, the advertiser thereof shall show records to substantiate an advertised offer;

(3) To advertise a new motor vehicle, motorcycle, or trailer at a price which does not include standard equipment with which it is fitted or is ordinarily fitted, without disclosing such fact, or eliminating any such equipment for the purpose of advertising a low price;

(4) To advertise (a) that the advertiser's prices are always or generally lower than competitive prices and not met or equalled by others or that the advertiser always or generally undersells competitors, (b) that the advertiser's prices are always or generally the lowest or that no other dealer has lower prices, (c) that the advertiser is never undersold, or (d) that no other advertiser or dealer will have a lower price;

(5) To advertise and make statements such as, Write Your Own Deal, Name Your Own Price, or Name Your Own Monthly Payments and other statements of a similar nature;

(6) To advertise by making disparaging comparisons with competitors' services, quality, price, products, or business methods;

(7) To advertise by making the layout, headlines, illustrations, and type size of an advertisement so as to convey or permit an erroneous impression as to which motor vehicle, motorcycle, or trailer or motor vehicles, motorcycles, or trailers are offered at featured prices. No advertised offer, expression, or display of price, terms, downpayment, trade-in allowance, cash difference, or savings shall be misleading by itself, and any qualification to such offer, expression, or display shall be clearly and conspicuously set forth in comparative type size and style, location, and layout to prevent deception;

(8) To advertise the price of a motor vehicle, motorcycle, or trailer without including all charges which the customer must pay for the

motor vehicle, motorcycle, or trailer, excepting state and local taxes and license, title, and other fees. It shall be unlawful to advertise prices described as unpaid balance unless they are the full cash selling price and to advertise price which is not the full selling price even though qualified with expressions such as with trade, with acceptable trade, or other similar words;

(9) To advertise as at cost, below cost, below invoice, or wholesale, unless the term used is strictly construed that the word cost as used in this subdivision or in a similar meaning is the actual price paid by the advertiser to the manufacturer for the motor vehicle, motorcycle, or trailer so advertised;

(10) To advertise claims that Everybody Financed, No Credit Rejected, or We Finance Anyone and other similar affirmative statements;

(11) To advertise a specific trade-in amount or range of amounts;

(12) To advertise the words Finance, Loan, or Discounts or others of similar import in the firm name or trade style of a person offering motor vehicles, motorcycles, and trailers for sale unless such person is actually engaged in the finance business and offering only bona fide repossessed motor vehicles, motorcycles, and trailers. It shall be unlawful to use the word Repossessed in the name or trade style of a firm in the advertising of motor vehicles, motorcycles, and trailers sold by such a company unless they are bona fide repossessions sold for unpaid balances due only. Advertisers offering repossessed automobiles for sale shall be able to offer proof of repossession;

(13) To advertise the term Authorized Dealer in any way as to mislead as to the make or makes of motor vehicles, motorcycles, or trailers for which a dealer is franchised to sell at retail;

(14) To advertise or sell new motor vehicles, motorcycles, and trailers by any person not enfranchised by the manufacturer of the motor vehicle, motorcycle, or trailer offered without disclosing the fact in each advertisement which includes the motor vehicle, motorcycle, or trailer, and in writing in the lease or purchase agreement that the licensee or motor vehicle dealer is not enfranchised by the manufacturer for service under factory warranty provisions. No person shall transfer ownership of a motor vehicle by reassignment on a manufacturer's statement of origin unless the person is enfranchised to do so by the manufacturer of the motor vehicle;

(15) To advertise used motor vehicles, motorcycles, or trailers so as to create the impression that they are new. Used motor vehicles, motorcycles, and trailers of the current and preceding model year shall be clearly identified as Used, Executive Driven, Demonstrator, or Driver Training, and lease cars, taxicabs, fleet vehicles, police motor vehicles, or motorcycles as may be the case and descriptions such as Low Mileage or Slightly Driven may also be applied only when correct. The terms demonstrator's, executive's, and official's motor vehicles, motorcycles, or trailers shall not be used unless (a) they have never been sold to a member of the public, (b) such terms describe motor vehicles, motorcycles, or trailers used by new motor vehicle, motorcycle, or trailer dealers or their employees for demonstrating performance ability, and (c) such vehicles are advertised for sale as such only by an authorized dealer in the same make of motor vehicle, motorcycle, or trailer. Phrases such as Last of the Remaining, Closeout, or Final Clearance and others of similar import shall not be used in advertising used motor vehicles, motorcycles, and trailers so as to convey the impression that the motor vehicles, motorcycles, and trailers offered are holdover new motor vehicles, motorcycles, and trailers. When new and used motor vehicles, motorcycles, and trailers of the current and preceding model year are offered in the same advertisement, such offers shall be clearly separated by description, layout, and art treatment;

(16) To advertise executives' or officials' motor vehicles, motorcycles, or trailers unless they have been used exclusively by the personnel or executive of the motor vehicle, motorcycle, or trailer manufacturer or by an executive of any authorized dealer of the same make thereof and such motor vehicles, motorcycles, and trailers have not been sold to a member of the public prior to the appearance of the advertisement;

(17) To advertise motor vehicles, motorcycles, and trailers owned by or in the possession of dealers without the name of the dealership or in any other manner so as to convey the impression that they are being offered by private parties;

(18) To advertise the term wholesale in connection with the retail offering of used motor vehicles, motorcycles, and trailers;

(19) To advertise the terms auction or auction special and other terms of similar import unless such terms are used in connection with motor vehicles, motorcycles, and trailers offered or sold at a bona fide auction to the highest bidder and under such other specific conditions as may be required

in ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act;~~

(20) To advertise free driving trial unless it means a trial without obligation of any kind and that the motor vehicle, motorcycle, or trailer may be returned in the period specified without obligation or cost. A driving trial advertised on a money back basis or with privilege of exchange or applying money paid on another motor vehicle, motorcycle, or trailer shall be so explained. Terms and conditions of driving trials, free or otherwise, shall be set forth in writing for the customer;

(21) To advertise (a) the term Manufacturer's Warranty unless it is used in advertising only in reference to cars covered by a bona fide factory warranty for that particular make of motor vehicle, motorcycle, or trailer. In the event only a portion of such warranty is remaining, then reference to a warranty may be used only if stated that that unused portion of the warranty is still in effect, (b) the term New Car Guarantee except in connection with new motor vehicles, motorcycles, and trailers, and (c) the terms Ninety-day Warranty, Fifty-fifty Guarantee, Three-hundred-mile Guarantee, and Six-month Warranty, unless the major terms and exclusions are sufficiently described in the advertisement;

(22) To advertise representations inconsistent with or contrary to the fact that a motor vehicle, motorcycle, or trailer is sold as is and without a guarantee. The customer contract shall clearly indicate when a car will be sold with a guarantee and what that guarantee is and similarly shall clearly indicate when a car is sold as is and without a guarantee; and

(23) To advertise or to make any statement, declaration, or representation in any advertisement that cannot be substantiated in fact, and the burden of proof of the factual basis for the statement, declaration, or representation shall be on the licensee or motor vehicle dealer and not on the board.

Sec. 69. Section 60-1415, Reissue Revised Statutes of Nebraska, is amended to read:

60-1415 (1) The board shall state in writing, officially signed by the chairperson or vice-chairperson and the executive director, its findings and determination after such hearing and its order in the matter. If the board determines and orders that an applicant is not qualified to receive a license or registration, no license or registration shall be granted. If the board determines that the party has willfully or through undue negligence been guilty of any violation of Chapter 60, article 14, the Motor Vehicle Industry Regulation Act or any rule or regulation adopted and promulgated by the board under authority of Chapter 60, article 14, the act, the board may suspend or revoke the license or registration, place the party on probation, assess an administrative fine, or take any combination of such actions. In determining the amount of the fine, the board may consider the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and any attempt made by the party to retaliate against another party for seeking relief pursuant to the laws, rules, or regulations relating to motor vehicle industry licensing. The board may also, after hearing, assess an additional administrative fine in an amount not to exceed five thousand dollars for each day a violation continues if a party fails to obey a direct order of the board or repeats the same violation within forty-eight months of the previous violation. The imposition of any such additional administrative fine shall commence one month after the initial order of the board or any final order on appeal if taken for failure to obey a direct order of the board and on the date of the second or subsequent violation for repeat violations within forty-eight months. The board may make a demand on a violator for restitution to a harmed consumer. The party may appeal the decision of the board. The appeal shall be in accordance with the Administrative Procedure Act.

(2) ~~All money collected by the board as an administrative fine shall be remitted on a monthly basis to the State Treasurer for credit to the permanent school fund. The board shall remit administrative fines to the State Treasurer on a monthly basis for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.~~ Any administrative fine imposed under this section and unpaid shall constitute a debt to the State of Nebraska which may be collected by lien foreclosure or sued for and recovered in any proper form of action, in the name of the State of Nebraska, in the district court of the county in which the violator resides or owns property.

Sec. 70. Section 60-1415.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-1415.01 Whenever the board shall believe from evidence satisfactory to it that any person has violated or is violating any provisions of Chapter 60, article 14, the Motor Vehicle Industry Regulation Act, the board may, in addition to any other remedy, bring an action in the name

and on behalf of the State of Nebraska against such person and any other person concerned in or in any way participating in or about to participate in practices or acts in violation of ~~Chapter 60, article 14, the act~~ to enjoin such person and such other person from continuing the same. In any such action, the board may apply for and on due showing be entitled to have issued the court's subpoena, requiring forthwith the appearance of any defendant, ~~his~~ and the defendant's agent and employees and the production of documents, books, and records as may appear necessary for the hearing of such petition to testify and give evidence concerning the acts or conduct of practices or things complained of in such application for injunction. In such action an order or judgment may be entered awarding such preliminary or final injunctions as may be proper.

Sec. 71. Section 60-1417.02, Reissue Revised Statutes of Nebraska, is amended to read:

60-1417.02 (1) Any person who engages in or attempts to engage in the selling of motor vehicles or trailers at an auction licensed pursuant to ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act~~ shall register to do so. Registration shall be made on a form provided by the auction dealer and approved by the board. A copy of the registration shall serve as proof of registration for the calendar year. The registration information shall be made available and accessible to the board by the auction dealer within seventy-two hours after the registrant has met the registration requirements and such registration is issued. Such registration information shall be maintained and made accessible to the board by the auction dealer for two years. It shall be the duty of the auction dealer to ensure that no seller participates in any sales activities until and unless registration has been received by the auction dealer or unless such seller is otherwise licensed under ~~Chapter 60, article 14, the act.~~

(2) The information required on the registration form shall include, but not be limited to, the following: (a) The legal name of the registrant; (b) the registrant's current mailing address and telephone number; (c) the business name and address of the person with whom the registrant is associated; and (d) whether or not the registrant is bonded.

(3) The registration form shall be signed by the registrant and an authorized representative of the auction and shall be notarized by a notary public.

(4) Any person who is convicted of any violation of ~~Chapter 60, article 14, the act~~ pursuant to section 60-1411.02, may be denied the right to be registered at all licensed auctions of this state following a hearing before the board as prescribed in section 60-1413.

Sec. 72. Section 60-1420, Reissue Revised Statutes of Nebraska, is amended to read:

60-1420 (1) Except as provided in subsection (2) of this section, no franchisor shall terminate or refuse to continue any franchise unless the franchisor has first established, in a hearing held pursuant to section 60-1425, that:

(a) The franchisor has good cause for termination or noncontinuance;  
 (b) Upon termination or noncontinuance, another franchise in the same line-make will become effective in the same community, without diminution of the franchisee's service formerly provided, or that the community cannot be reasonably expected to support such a dealership; and

(c) The franchisor is willing and able to comply with section 60-1430.02.

(2) Upon providing good and sufficient evidence to the board, a franchisor may terminate a franchise without such hearing (a) for a particular line-make if the franchisor discontinues that line-make, (b) if the franchisee's license as a motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealer is revoked pursuant to ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act,~~ or (c) upon a mutual written agreement of the franchisor and franchisee.

Sec. 73. Section 60-1421, Reissue Revised Statutes of Nebraska, is amended to read:

60-1421 If franchisor is permitted to terminate or not continue a franchise, and is further permitted not to enter into a franchise, for the line-make in the community, no franchise shall thereafter be entered into for the sale of a motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealer of that line-make in the community, unless the franchisor has first established, in a hearing held under the ~~provisions of Chapter 60, article 14, Motor Vehicle Industry Regulation Act~~ that there has been a change of circumstances so that the community at that time can be reasonably expected to support the dealership.

Sec. 74. Section 60-1422, Reissue Revised Statutes of Nebraska, is

amended to read:

60-1422 No franchisor shall enter into any franchise for the purpose of establishing an additional motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealership or warranty repair service facility, in any community in which the same line-make is then represented, unless the franchisor has first established in a hearing held under Chapter 60, article 14, the Motor Vehicle Industry Regulation Act that there is good cause for such additional motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealership under such franchise, or warranty repair service facility, and that it is in the public interest.

Sec. 75. Section 60-1427, Reissue Revised Statutes of Nebraska, is amended to read:

60-1427 Upon hearing, the franchisor shall have the burden of proof to establish that under the provisions of Chapter 60, article 14, the Motor Vehicle Industry Regulation Act the franchisor should be granted permission to terminate or not continue the franchise or to enter into a franchise establishing an additional motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealership.

Nothing contained in Chapter 60, article 14, the act shall be construed to require or authorize any investigation by the board of any matter before the board under the provisions of sections 60-1420 to 60-1435. Upon hearing, the board shall hear the evidence introduced by the parties and shall make its decision solely upon the record so made.

Sec. 76. Section 60-1428, Reissue Revised Statutes of Nebraska, is amended to read:

60-1428 The rules of civil procedure relating to discovery and inspection shall apply to hearings held under the provisions of Chapter 60, article 14, Motor Vehicle Industry Regulation Act, and the board may issue orders to give effect to such rules.

If issues are raised which would involve violations of any state or federal antitrust or price-fixing law, all discovery and inspection proceedings which would be available under such issues in a state or federal court action shall be available to the parties to the hearing, and the board may issue orders to give effect to such proceedings.

Evidence which would be admissible under the issues in a state or federal court action shall be admissible in a hearing held by the board. The board shall apportion all costs between the parties.

Sec. 77. Section 60-1430, Reissue Revised Statutes of Nebraska, is amended to read:

60-1430 Notwithstanding the terms, provisions, or conditions of any agreement or franchise, subject to subdivision (2) of section 60-1429, in the event of the sale or a contract for sale or transfer of ownership of the franchisee's dealership by sale or transfer of the business or by stock transfer or in the event of change in the executive management of the franchisee's dealership, the franchisor shall give effect to such a change in the franchise unless (1) the transfer of the franchisee's license under Chapter 60, article 14, the Motor Vehicle Industry Regulation Act is denied or the new owner is unable to obtain a license under Chapter 60, article 14, the act, as the case may be, or (2) the proposed sale or transfer of the business or change of executive management will be substantially detrimental to the distribution of the franchisor's motor vehicles, combination motor vehicles and trailers, motorcycles, or trailer products or to competition in the community if the franchisor has given written notice of such fact to the franchisee within sixty days of receipt by the franchisor of information reasonably necessary to evaluate the proposed change.

Sec. 78. Section 60-1430.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-1430.01 (1) Any designated family member of a deceased or incapacitated new motor vehicle dealer may succeed the dealer in the ownership or operation of the dealership under the existing dealer agreement if the designated family member gives the manufacturer or distributor written notice of his or her intention to succeed to the dealership within one hundred twenty days after the dealer's death or incapacity, agrees to be bound by all of the terms and conditions of the dealer agreement, and meets the current criteria generally applied by the manufacturer or distributor in qualifying new motor vehicle dealers. A manufacturer or distributor may refuse to honor the existing dealer agreement with the designated family member only for good cause.

(2) The manufacturer or distributor may request from a designated family member such personal financial data as is reasonably necessary to determine whether the existing dealer agreement should be honored. The designated family member shall supply the personal and financial data promptly

upon the request.

(3) If a manufacturer or distributor believes that good cause exists for refusing to honor that succession, the manufacturer or distributor may, within sixty days after receipt of the notice of the designated family member's intent to succeed the dealer in the ownership and operation of the dealership, or within sixty days after the receipt of the requested personal and financial data, whichever is later, serve upon the designated family member notice of its refusal to approve the succession.

(4) The notice of the manufacturer or distributor provided in subsection (3) of this section shall state the specific ground for the refusal to approve the succession and that discontinuance of the agreement shall take effect not less than ninety days after the date the notice is served.

(5) If notice of refusal is not served within the sixty days provided for in subsection (3) of this section, the dealer agreement shall continue in effect and shall be subject to termination only as otherwise permitted by ~~Chapter 60, article 14,~~ the Motor Vehicle Industry Regulation Act.

(6) This section shall not preclude a new motor vehicle dealer from designating any person as his or her successor by written instrument filed with the manufacturer or distributor, and if such an instrument is filed, it alone shall determine the succession rights to the management and operation of the dealership.

Sec. 79. Section 60-1430.02, Reissue Revised Statutes of Nebraska, is amended to read:

60-1430.02 (1) Upon the termination, cancellation, or noncontinuation of a franchise by the franchisor or franchisee pursuant to ~~Chapter 60, article 14,~~ the Motor Vehicle Industry Regulation Act, the franchisor shall pay the franchisee:

(a) The dealer cost, plus any charges made by the franchisor for distribution, delivery, and taxes, less all allowances paid or credited to the franchisee by the franchisor, of unused, undamaged, and unsold motor vehicles in the franchisee's inventory acquired from the franchisor or another franchisee of the same line and make within the previous twelve months;

(b) The dealer cost, less all allowances paid or credited to the franchisee by the franchisor, for all unused, undamaged, and unsold supplies, parts, and accessories in original packaging, except that (i) in the case of sheet metal, a comparable substitute for original packaging may be used if such supply, part, or accessory is offered for sale by the franchisor and was acquired from the franchisor or the predecessor franchisee as a part of the franchisee's initial inventory and (ii) in the case of a motorcycle franchise, the payment for such supplies, parts, and accessories shall be based upon the currently published dealer cost for all unused, undamaged, and unsold supplies, parts, and accessories currently offered for sale by the franchisor and originally acquired from the franchisor or the predecessor franchisee as a part of the franchisee's initial inventory, and all such supplies, parts, and accessories shall be currently identifiable and labeled and in the original packaging or a comparable substitute for the original packaging;

(c) The fair market value of each undamaged sign owned by the franchisee which bears a common name, trade name, or trademark of the franchisor if acquisition of such sign was recommended or required by the franchisor;

(d) The fair market value of all special tools, equipment, and furnishings acquired from the franchisor or sources approved by the franchisor which were recommended and required by the franchisor and are in good and usable condition except for reasonable wear and tear; and

(e) The cost of transporting, handling, packing, and loading motor vehicles, supplies, parts, accessories, signs, special tools, equipment, and furnishings.

(2) The franchisor shall pay the franchisee the amounts specified in subsection (1) of this section within ninety days after the tender of the property if the franchisee has clear title to the property and is in a position to convey that title to the franchisor. This section shall not apply to a termination or noncontinuation of a franchise that is implemented as a result of the sale of the assets or stock of the franchisee.

(3)(a) If the termination, cancellation, or nonrenewal of a franchise is the result of the termination, elimination, or cessation of a line-make by the manufacturer, distributor, or factory branch, then, in addition to the payments to the franchisee pursuant to subsection (1) of this section, the manufacturer, distributor, or factory branch shall be liable to the franchisee for an amount at least equivalent to the fair market value of the franchise for the line-make, which shall be the greater of that value determined as of (i) the date the franchisor announces the action that results

in termination, cancellation, or nonrenewal of the line-make or (ii) the date the action that resulted in termination, cancellation, or nonrenewal of the line-make first became general knowledge. In determining the fair market value of a franchise for a line-make, if the line-make is not the only line-make for which the franchisee holds a franchise in the dealership facilities, the franchisee shall also be entitled to compensation for the contribution of the line-make to payment of the rent or to covering obligations for the fair rental value of the franchise facilities for the period set forth in subdivision (b) of this subsection. Fair market value of the franchise for the line-make shall only include the goodwill value of the franchise for that line-make in the franchisee's community.

(b) If the line-make is the only line-make for which the franchisee holds a franchise, the manufacturer, distributor, or factory branch shall also pay assistance with respect to the franchise facilities leased or owned by the franchisee as follows:

(i) The manufacturer, distributor, or factory branch shall pay the franchisee a sum equivalent to the rent for the unexpired term of the lease or two years' rent, whichever is less; or

(ii) If the franchisee owns the franchise facilities, the manufacturer, distributor, or factory branch shall pay the franchisee a sum equivalent to the reasonable rental value of the franchise facilities for two years.

(c) To be entitled to franchise facilities assistance from the manufacturer, distributor, or factory branch, the franchisee shall have the obligation to mitigate damages by listing the franchise facilities for lease or sublease with a licensed real estate agent within thirty days after the effective date of the termination of the franchise and by reasonably cooperating with the real estate agent in the performance of the agent's duties and responsibilities. If the franchisee is able to lease or sublease the franchise facilities on terms that are consistent with local zoning requirements to preserve the right to sell motor vehicles from the franchise facilities and the terms of the franchisee's lease, the franchisee shall be obligated to pay the manufacturer the net revenue received from such mitigation, but only following receipt of franchise facilities assistance payments pursuant to subdivision (3)(b) of this section and only up to the total amount of franchise facilities assistance payments that the franchisee has received.

(d) This subsection does not apply to the termination of a line-make by a franchisor of recreational vehicles.

~~(3)~~ (4) This section shall not relieve a franchisee from the any other obligation to mitigate damages upon termination, cancellation, or noncontinuation of the franchise.

Sec. 80. Section 60-1432, Reissue Revised Statutes of Nebraska, is amended to read:

60-1432 If a franchisor enters into or attempts to enter into a franchise, whether upon termination or refusal to continue another franchise or upon the establishment of an additional motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealership in a community where the same line-make is then represented, without first complying with the provisions of Chapter 60, article 14, Motor Vehicle Industry Regulation Act, no license under Chapter 60, article 14, the act shall be issued to that franchisee or proposed franchisee to engage in the business of selling motor vehicles, combination motor vehicles and trailers, motorcycles, or trailers manufactured or distributed by that franchisor.

Sec. 81. Section 60-1436, Reissue Revised Statutes of Nebraska, is amended to read:

60-1436 A manufacturer or distributor shall not require or coerce any new motor vehicle dealer in this state to do any of the following:

(1) Order or accept delivery of any new motor vehicle, part or accessory, equipment, or other commodity not required by law which was not voluntarily ordered by the new motor vehicle dealer. This section shall not be construed to prevent the manufacturer or distributor from requiring that new motor vehicle dealers carry a reasonable inventory of models offered for sale by the manufacturer or distributor;

(2) Offer or accept delivery of any new motor vehicle with special features, accessories, or equipment not included in the list price of the new motor vehicle as publicly advertised by the manufacturer or distributor;

(3) Participate monetarily in any advertising campaign or contest or purchase any promotional materials, display devices, or display decorations or materials at the expense of the new motor vehicle dealer;

(4) Join, contribute to, or affiliate with an advertising association;

~~(4)~~ (5) Enter into any agreement with the manufacturer or distributor or do any other act prejudicial to the new motor vehicle dealer by threatening to terminate a dealer agreement or any contractual agreement or understanding existing between the dealer and the manufacturer or distributor. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of the dealer agreement shall not constitute a violation of ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act;~~

~~(5)~~ (6) Change the capital structure of the new motor vehicle dealership or the means by or through which the dealer finances the operation of the dealership, if the dealership at all times meets any reasonable capital standards determined by the manufacturer in accordance with uniformly applied criteria;

~~(6)~~ (7) Refrain from participation in the management of, investment in, or the acquisition of any other line of new motor vehicle or related products as long as the dealer maintains a reasonable line of credit for each make or line of vehicle, remains in compliance with reasonable facilities requirements, and makes no change in the principal management of the dealer;

~~(7)~~ (8) Prospectively assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability imposed by ~~Chapter 60, article 14, the act~~ or require any controversy between the new motor vehicle dealer and a manufacturer or distributor to be referred to a person other than the duly constituted courts of the state or the United States, if the referral would be binding upon the new motor vehicle dealer;

~~(8)~~ (9) Change the location of the new motor vehicle dealership or make any substantial alterations to the dealership premises, if such changes or alterations would be unreasonable;

~~(9)~~ (10) Release, convey, or otherwise provide customer information if to do so is unlawful or if the customer objects in writing to doing so, unless the information is necessary for the manufacturer, factory branch, or distributor to meet its obligations to consumers or the new motor vehicle dealer including vehicle recalls or other requirements imposed by state or federal law; and

~~(10)~~ (11) Release to any unaffiliated third party any customer information which has been provided by the new motor vehicle dealer to the manufacturer except as provided in subdivision ~~(9)~~ (10) of this section;—

(12) Establish in connection with the sale of a motor vehicle prices at which the dealer must sell products or services not manufactured or distributed by the manufacturer or distributor, whether by agreement, program, incentive provision, or otherwise; or

(13) Underutilize the dealer's facilities by requiring or coercing a dealer to exclude or remove from the dealer's facilities operations for selling or servicing a line-make of motor vehicles for which the dealer has a franchise agreement to utilize the facilities, except that this subdivision does not prohibit a manufacturer from requiring exclusive sales facilities that are in compliance with reasonable requirements for the facilities.

Any action prohibited for a manufacturer or distributor under the Motor Vehicle Industry Regulation Act is also prohibited for a subsidiary which is wholly owned or controlled by contract by a manufacturer or distributor or in which a manufacturer or distributor has more than a ten percent ownership interest, including a financing division.

Sec. 82. Section 60-1437, Reissue Revised Statutes of Nebraska, is amended to read:

60-1437 In addition to the restrictions imposed by section 60-1436, a manufacturer or distributor shall not:

(1) Fail to deliver new motor vehicles or new motor vehicle parts or accessories within a reasonable time and in reasonable quantities relative to the new motor vehicle dealer's market area and facilities, unless the failure is caused by acts or occurrences beyond the control of the manufacturer or distributor or unless the failure results from an order by the new motor vehicle dealer in excess of quantities reasonably and fairly allocated by the manufacturer or distributor;

(2) Refuse to disclose to a new motor vehicle dealer the method and manner of distribution of new motor vehicles by the manufacturer or distributor;

(3) Refuse to disclose to a new motor vehicle dealer the total number of new motor vehicles of a given model which the manufacturer or distributor has sold during the current model year within the dealer's marketing district, zone, or region, whichever geographical area is the smallest;

(4) Increase the price of any new motor vehicle which the new motor vehicle dealer had ordered and delivered to the same retail consumer for whom the vehicle was ordered, if the order was made prior to the dealer's

receipt of the written official price increase notification. A sales contract signed by a private retail consumer and binding on the dealer shall constitute evidence of such order. In the event of manufacturer or distributor price reduction or cash rebate, the amount of any reduction or rebate received by a dealer shall be passed on to the private retail consumer by the dealer. Any price reduction in excess of five dollars shall apply to all vehicles in the dealer's inventory which were subject to the price reduction. A price difference applicable to a new model or series of motor vehicles at the time of the introduction of the new model or series shall not be considered a price increase or price decrease. This subdivision shall not apply to price changes caused by the following:

(a) The addition to a motor vehicle of required or optional equipment pursuant to state or federal law;

(b) In the case of foreign-made vehicles or components, revaluation of the United States dollar; or

(c) Any increase in transportation charges due to an increase in rates charged by a common carrier or other transporter; ~~or~~

(5) Fail or refuse to sell or offer to sell to all franchised new motor vehicle dealers in a line-make every new motor vehicle sold or offered for sale to any franchised new motor vehicle dealer of the same line-make. However, the failure to deliver any such new motor vehicle shall not be considered a violation of this section if the failure is due to a lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo, or any other cause over which the franchisor has no control. A manufacturer or distributor shall not require that any of its new motor vehicle dealers located in this state pay any extra fee, purchase unreasonable or unnecessary quantities of advertising displays or other materials, or remodel, renovate, or recondition the new motor vehicle dealer's existing facilities in order to receive any particular model or series of vehicles manufactured or distributed by the manufacturer for which the dealers have a valid franchise. Notwithstanding the provisions of this subdivision, nothing contained in this section shall be deemed to prohibit or prevent a manufacturer from requiring that its franchised dealers located in this state purchase special tools or equipment, stock reasonable quantities of certain parts, or participate in training programs which are reasonably necessary for those dealers to sell or service any model or series of new motor vehicles. This subdivision shall not apply to manufacturers of recreational vehicles;—

(6) Fail to offer dealers of a specific line-make a new franchise agreement containing substantially similar terms and conditions for sales of the line-make if the ownership of the manufacturer or distributor changes or there is a change in the plan or system of distribution;

(7) Take an adverse action against a dealer because the dealer sells or leases a motor vehicle that is later exported to a location outside the United States. A franchise provision that allows a manufacturer or distributor to take adverse action against a dealer because the dealer sells or leases a motor vehicle that is later exported to a location outside the United States is enforceable only if, at the time of the original sale or lease, the dealer knew or reasonably should have known that the motor vehicle would be exported to a location outside the United States. A dealer is presumed to have no knowledge that a motor vehicle the dealer sells or leases will be exported to a location outside the United States if, under the laws of a state of the United States (a) the motor vehicle is titled, (b) the motor vehicle is registered, and (c) applicable state and local taxes are paid for the motor vehicle. Such presumption may be rebutted by direct, clear, and convincing evidence that the dealer knew or reasonably should have known at the time of the original sale or lease that the motor vehicle would be exported to a location outside the United States. Except as otherwise permitted by subdivision (7) of this section, a franchise provision that allows a manufacturer or distributor to take adverse action against a dealer because the dealer sells or leases a motor vehicle that is later exported to a location outside the United States is void and unenforceable;

(8) Discriminate against a dealer holding a franchise for a line-make of the manufacturer or distributor in favor of other dealers of the same line-make in this state by:

(a) Selling or offering to sell a new motor vehicle to a dealer at a lower actual price, including the price for vehicle transportation, than the actual price at which the same model similarly equipped is offered to or is available to another dealer in this state during a similar time period; or

(b) Using a promotional program or device or an incentive, payment, or other benefit, whether paid at the time of the sale of the new motor vehicle to the dealer or later, that results in the sale or offer to sell

a new motor vehicle to a dealer at a lower price, including the price for vehicle transportation, than the price at which the same model similarly equipped is offered or is available to another dealer in this state during a similar time period. This subdivision shall not prohibit a promotional or incentive program that is functionally available to competing dealers of the same line-make in this state on substantially comparable terms; or

(9) Make any express or implied statement or representation directly or indirectly that the dealer is under any obligation whatsoever to offer to sell or sell any extended service contract or extended maintenance plan offered, sold, backed by, or sponsored by the manufacturer or distributor or to sell, assign, or transfer any of the dealer's retail sales contracts or leases in this state on motor vehicles manufactured or sold by the manufacturer or distributor to a finance company or class of finance companies, leasing company or class of leasing companies, or other specified person, because of any relationship or affiliation between the manufacturer or distributor and the finance company or companies, leasing company or leasing companies, or the specified person or persons.

Any such statements, threats, promises, acts, contracts, or offers of contracts, when their effect may be to lessen or eliminate competition or tend to create a monopoly, are declared unfair trade practices and unfair methods of competition and are prohibited.

Sec. 83. Section 60-1438, Reissue Revised Statutes of Nebraska, is amended to read:

60-1438 (1) Each new motor vehicle manufacturer or distributor shall specify in writing to each of its new motor vehicle dealers licensed in this state the dealer's obligations for preparation, delivery, and warranty service on its products. The manufacturer or distributor shall compensate the new motor vehicle dealer for warranty service which such manufacturer or distributor requires the dealer to provide. The manufacturer or distributor shall provide the new motor vehicle dealer with the schedule of compensation to be paid to the dealer for parts, work, and service and the time allowance for the performance of the work and service.

(2) The schedule of compensation shall include reasonable compensation for diagnostic work, as well as repair service, parts, and labor. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed. In the determination of what constitutes reasonable compensation under this section, the principal factors to be given consideration shall be the prevailing wage rates being paid by dealers in the community in which the dealer is doing business, and in no event shall the compensation of the dealer for warranty parts and labor be less than the rates charged by the dealer for like parts and service to retail or fleet customers, as long as such rates are reasonable.

(3) A manufacturer or distributor shall not do any of the following:

(a) Fail to perform any warranty obligation;

(b) Fail to include in written notices of factory recalls to new motor vehicle owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of the defects; or

(c) Fail to compensate any of the new motor vehicle dealers licensed in this state for repairs effected by the recall.

(4) All claims made by a new motor vehicle dealer pursuant to this section for labor and parts shall be paid within thirty days after their approval. All claims shall be either approved or disapproved by the manufacturer or distributor within thirty days after their receipt on a proper form generally used by the manufacturer or distributor and containing the usually required information therein. Any claim not specifically disapproved in writing within thirty days after the receipt of the form shall be considered to be approved and payment shall be made within thirty days. The manufacturer has the right to audit the claims for two years after payment and to charge back to the new motor vehicle dealer the amount of any false, or fraudulent, or unsubstantiated claim. A manufacturer may not deny a claim based solely on a dealer's incidental failure to comply with a specific claim processing requirement, such as a clerical error that does not put into question the legitimacy of the claim. If a claim is rejected for a clerical error, the dealer may resubmit a corrected claim in a timely manner.

(5) The warranty obligations set forth in this section shall also apply to any manufacturer of a new motor vehicle transmission, engine, or rear axle that separately warrants its components to customers.

Sec. 84. Section 60-1438.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-1438.01 (1) For purposes of this section, manufacturer

or distributor includes (a) a factory representative or a distributor representative or (b) a person who is affiliated with a manufacturer or distributor or who, directly or indirectly through an intermediary, is controlled by, or is under common control with, the manufacturer or distributor. A person is controlled by a manufacturer or distributor if the manufacturer or distributor has the authority directly or indirectly, by law or by agreement of the parties, to direct or influence the management and policies of the person. A franchise agreement with a Nebraska-licensed dealer which conforms to and is subject to ~~sections 60-1401.01 to 60-1440~~ the Motor Vehicle Industry Regulation Act is not control for purposes of this section.

(2) Except as provided in this section, a manufacturer or distributor shall not directly or indirectly:

(a) Own an interest in a franchise, franchisee, or consumer care or service facility, except that a manufacturer or distributor may hold stock in a publicly held franchise, franchisee, or consumer care or service facility so long as the manufacturer or distributor does not by virtue of holding such stock operate or control the franchise, franchisee, or consumer care or service facility;

(b) Operate or control a franchise, franchisee, or consumer care or service facility; or

(c) Act in the capacity of a franchisee.

(3) A manufacturer or distributor may own an interest in a franchisee or otherwise control a franchise for a period not to exceed twelve months after the date the manufacturer or distributor acquires the franchise if:

(a) The person from whom the manufacturer or distributor acquired the franchise was a franchisee; and

(b) The franchise is for sale by the manufacturer or distributor.

(4) For purposes of broadening the diversity of its franchisees and enhancing opportunities for qualified persons who lack the resources to purchase a franchise outright, but for no other purpose, a manufacturer or distributor may temporarily own an interest in a franchise if the manufacturer's or distributor's participation in the franchise is in a bona fide relationship with a franchisee and the franchisee:

(a) Has made a significant investment in the franchise, which investment is subject to loss;

(b) Has an ownership interest in the franchise; and

(c) Operates the franchise under a plan to acquire full ownership of the franchise within a reasonable time and under reasonable terms and conditions.

(5) On a showing of good cause by a manufacturer or distributor, the board may extend the time limit set forth in subsection (3) of this section. An extension may not exceed twelve months. An application for an extension after the first extension is granted is subject to protest by a franchisee of the same line-make whose franchise is located in the same community as the franchise owned or controlled by the manufacturer or distributor.

(6) The prohibition in subdivision (2)(b) of this section shall not apply to any manufacturer of manufactured housing, recreational vehicles, or trailers.

Sec. 85. Section 60-1440, Reissue Revised Statutes of Nebraska, is amended to read:

60-1440 (1) Any person who is or may be injured by a violation of ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act~~ or any party to a franchise whose business or property is damaged by a violation of ~~Chapter 60, article 14, the act~~ relating to that franchise may bring an action for damages and equitable relief, including injunctive relief.

(2) When a violation of ~~Chapter 60, article 14, the act~~ can be shown to be willful or wanton, the court shall award damages. If the manufacturer engages in continued multiple violations of ~~Chapter 60, article 14, the act~~, the court may, in addition to any other damages, award court costs and attorney's fees.

(3) A new motor vehicle dealer, if he or she has not suffered any loss of money or property, may obtain final equitable relief if it can be shown that a violation of ~~Chapter 60, article 14, the act~~ by a manufacturer may have the effect of causing such loss of money or property.

(4) If any action to enforce any of the provisions of ~~Chapter 60, article 14, the act~~ is brought by a new motor vehicle dealer against a manufacturer and the new motor vehicle dealer prevails, he or she shall be awarded reasonable attorney's fees and the court shall assess costs against the manufacturer.

(5) If any dispute between a franchisor and franchisee becomes subject to resolution by means of binding arbitration, the provisions of

~~Chapter 60, article 14, the act~~ regulating the relationship of franchisor and franchisee shall apply in any such proceeding.

Sec. 86. Section 60-2602, Reissue Revised Statutes of Nebraska, is amended to read:

60-2602 Whenever any wrecker or salvage dealer who is required to be licensed pursuant to ~~Chapter 60, article 14, the~~ Motor Vehicle Industry Regulation Act acquires, after August 26, 1983, any material which is or may have been a vehicle or major component part:

(1) ~~the~~ The wrecker or salvage dealer shall determine by means of a driver's license, state identification card, certificate of employer's federal identification number, or license issued by the board, the identity of the person or firm from whom such material is acquired; and

(2) ~~each~~ Each such wrecker or salvage dealer shall maintain a record of the following information:

(a) The name and address of the person or firm from whom such material was acquired;

(b) The means by which such person or firm was identified, including the number and issuing state of any driver's license or state identification card, the federal employer's identification number, or the licensee's number issued by the board;

(c) A general description of the material acquired, including, but not limited to, if available and identifiable, the year, make, model, manufacturer's vehicle identification number, and any other identifying marks or numbers, of any vehicle or major component part; and

(d) The date of acquisition, the purchase price, including the value and description of any material traded, and the type of payment, including the number of any check or draft issued or received in exchange for such material.

Sec. 87. Section 60-2603, Reissue Revised Statutes of Nebraska, is amended to read:

60-2603 Any wrecker or salvage dealer licensed by the board pursuant to ~~Chapter 60, article 14, the~~ Motor Vehicle Industry Regulation Act having possession on August 26, 1983, of both a salvage vehicle and a certificate of title for such vehicle, either issued to or assigned to such a person, shall not be required to obtain a salvage branded certificate of title for such vehicle except upon transfer of the vehicle to a person not required to be licensed as a wrecker or salvage dealer by the board.

Sec. 88. Section 60-2604, Reissue Revised Statutes of Nebraska, is amended to read:

60-2604 Any wrecker or salvage dealer required to be licensed by the board pursuant to ~~Chapter 60, article 14, the~~ Motor Vehicle Industry Regulation Act having possession on August 26, 1983, of a major component part, shall include in his or her regular business records the information required to be recorded by subdivision (2) of section 60-2602, to the extent such information is available.

Sec. 89. Section 60-2701, Revised Statutes Cumulative Supplement, 2008, is amended to read:

60-2701 As used in sections 60-2701 to 60-2709, unless the context otherwise requires:

(1) Consumer shall mean the purchaser, other than for purposes of resale, of a motor vehicle normally used for personal, family, household, or business purposes, any person to whom such motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to such motor vehicle, and any other person entitled by the terms of such warranty to enforce the obligations of the warranty;

(2) Motor vehicle shall mean a new motor vehicle as defined in section ~~60-1401.02~~ 42 of this act which is sold in this state, excluding recreational vehicles as defined in section 60-347; and

(3) Manufacturer's express warranty shall mean the written warranty, so labeled, of the manufacturer of a new motor vehicle.

Sec. 90. Section 71-4603, Reissue Revised Statutes of Nebraska, is amended to read:

71-4603 For purposes of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, unless the context otherwise requires:

(1) Camping trailer means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use;

(2) Commission means the Public Service Commission;

(3) Dealer means a person licensed by the state pursuant to ~~Chapter 60, article 14, the~~ Motor Vehicle Industry Regulation Act as a dealer in manufactured homes or recreational vehicles or any other person, other than a manufacturer, who sells, offers to sell, distributes, or leases manufactured

homes or recreational vehicles primarily to persons who in good faith purchase or lease a manufactured home or recreational vehicle for purposes other than resale;

(4) Defect means a failure to conform to an applicable construction standard that renders the manufactured home or recreational vehicle or any component of the manufactured home or recreational vehicle not fit for the ordinary use for which it was intended but does not result in an unreasonable risk of injury or death to occupants;

(5) Distributor means any person engaged in the sale and distribution of manufactured homes or recreational vehicles for resale;

(6) Failure to conform means a defect, a serious defect, noncompliance, or an imminent safety hazard related to the code;

(7) Fifth-wheel trailer means a unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed four hundred square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle;

(8) Gross trailer area means the total plan area measured on the exterior to the maximum horizontal projections of exterior wall in the setup mode and includes all siding, corner trims, moldings, storage spaces, expandable room sections regardless of height, and areas enclosed by windows but does not include roof overhangs. Storage lofts contained within the basic unit shall have ceiling heights less than five feet and shall not constitute additional square footage. Appurtenances, as defined in subdivision (2)(k) of section 60-6,288, shall not be considered in calculating the gross trailer area as provided in such subdivision;

(9) Imminent safety hazard means a hazard that presents an imminent and unreasonable risk of death or severe personal injury;

(10) Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, except that manufactured home includes any structure that meets all of the requirements of this subdivision other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as such act existed on September 1, 2001, 42 U.S.C. 5401 et seq.;

(11) Manufactured-home construction means all activities relating to the assembly and manufacture of a manufactured home, including, but not limited to, activities relating to durability, quality, and safety;

(12) Manufactured-home safety means the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such manufactured home or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

(13) Manufacturer means any person engaged in manufacturing, assembling, or completing manufactured homes or recreational vehicles;

(14) Motor home means a vehicular unit primarily designed to provide temporary living quarters which are built into an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van, containing permanently installed independent life-support systems that meet the state standard for recreational vehicles and providing at least four of the following facilities: Cooking; refrigeration or ice box; self-contained toilet; heating, air conditioning, or both; a potable water supply system including a faucet and sink; separate one-hundred-twenty-nominal-volt electrical power supply; or LP gas supply;

(15) Noncompliance means a failure to comply with an applicable construction standard that does not constitute a defect, a serious defect, or an imminent safety hazard;

(16) Park trailer means a vehicular unit which meets the following criteria:

(a) Built on a single chassis mounted on wheels;

(b) Designed to provide seasonal or temporary living quarters which may be connected to utilities necessary for operation of installed fixtures and appliances;

(c) Constructed to permit setup by persons without special skills

using only hand tools which may include lifting, pulling, and supporting devices; and

(d) Having a gross trailer area not exceeding four hundred square feet when in the setup mode;

(17) Person means any individual, partnership, limited liability company, company, corporation, or association engaged in manufacturing, selling, offering to sell, or leasing manufactured homes or recreational vehicles;

(18) Purchaser means the first person purchasing a manufactured home or recreational vehicle in good faith for purposes other than resale;

(19) Recreational vehicle means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which unit either has its own motive power or is mounted on or towed by another vehicle. Recreational vehicle includes, but is not limited to, travel trailer, park trailer, camping trailer, truck camper, motor home, and van conversion;

(20) Seal means a device or insignia issued by the Department of Health and Human Services Regulation and Licensure prior to May 1, 1998, or by the Public Service Commission on or after May 1, 1998, to be displayed on the exterior of a manufactured home or recreational vehicle to evidence compliance with state standards. The federal manufactured-home label shall be recognized as a seal;

(21) Serious defect means a failure to conform to an applicable construction standard that renders the manufactured home or recreational vehicle or any component of the manufactured home or recreational vehicle not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to the occupants;

(22) Travel trailer means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight as not to require special highway movement permits when towed by a motorized vehicle and of gross trailer area less than four hundred square feet;

(23) Truck camper means a portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides and designed to be loaded onto and unloaded from the bed of a pickup truck; and

(24) Van conversion means a completed vehicle permanently altered cosmetically, structurally, or both which has been recertified by the state as a multipurpose passenger vehicle but which does not conform to or otherwise meet the definition of a motor home in this section and which contains at least one plumbing, heating, or one-hundred-twenty-nominal-volt electrical component subject to the provisions of the state standard for recreational vehicles. Van conversion does not include any such vehicle that lacks any plumbing, heating, or one-hundred-twenty-nominal-volt electrical system but contains an extension of the low-voltage automotive circuitry.

Sec. 91. Original sections 25-2602.01, 28-1316, 44-3526, 60-1401.01, 60-1402, 60-1403, 60-1403.01, 60-1404, 60-1405, 60-1406, 60-1407, 60-1407.01, 60-1407.02, 60-1407.03, 60-1407.04, 60-1411.03, 60-1415, 60-1415.01, 60-1417.02, 60-1420, 60-1421, 60-1422, 60-1427, 60-1428, 60-1430, 60-1430.01, 60-1430.02, 60-1432, 60-1436, 60-1437, 60-1438, 60-1438.01, 60-1440, 60-2602, 60-2603, 60-2604, and 71-4603, Reissue Revised Statutes of Nebraska, sections 60-194, 60-373, 60-375, 60-380, 60-381, 60-3,116, 60-1411.01, 60-1411.02, and 60-2701, Revised Statutes Cumulative Supplement, 2008, sections 60-144, 60-164, and 60-1401.02, Revised Statutes Supplement, 2009, and section 60-1409, Reissue Revised Statutes of Nebraska, as amended by section 36, Legislative Bill 3, One Hundred First Legislature, First Special Session, 2009, are repealed.

Sec. 92. Since an emergency exists, this act takes effect when passed and approved according to law.